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SEP 28 2006

DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

) Subcase 45-13970
)
)

Case 39576

) STANDARD FORM 4
)
)

) MOTION TO FILE
) LATE NOTICE OF CLAIM
)
_____)

✓ I have read *SRBA Administrative Order 1, Rules of Procedure* (amended October 16, 1997).

My name is: McCain Foods USA, Inc.
c/o David Hines, Plant Manager

My address is: Attn: P.O. Box 10
Burley, Idaho 83318

My phone number is: Work 208-678-6723

I am an attorney representing the above-listed claimant.

My name is Josephine P. Beeman

My address is Beeman & Associates, P.C.
409 West Jefferson Street
Boise, Idaho 83702

My phone number is (208) 331-0950 FAX: (208) 331-0954

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on December 19, 2006, Tuesday at 1:30 p.m.

(Insert Date and Time)

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

VERIFICATION

State of Idaho)
) ss:
County of Ada)

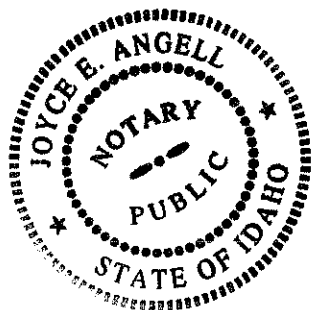
Josephine P. Beeman, being first duly sworn, upon oath, deposes and says:

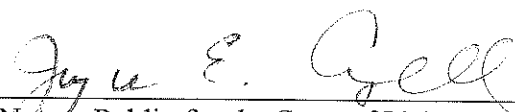
That I am the attorney for the party/claimant filing this motion for late claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.



Josephine P. Beeman
Attorney signing in representative capacity

Subscribed and sworn to before me on September 27, 2006.





Notary Public for the State of Idaho
Residing at: Boise, Idaho
My Commission Expires: 7-29-08

CERTIFICATE OF MAILING

I certify that on September 27, 2006, I caused to be served the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

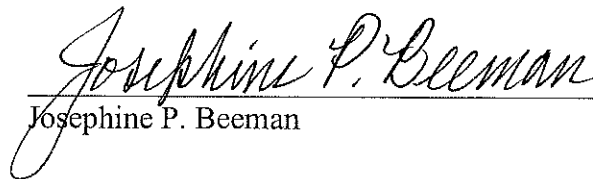
2. Copies to:

IDWR Document Depository
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Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Chris Bromley
Deputy Attorney General
Idaho Department of Water Resources
322 East Front Street
PO Box 83720
Boise, Idaho 83720-0098



Josephine P. Beeman

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

**IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM**

CIVIL CASE NUMBER: 39576

Ident. Number 45-13970

Date Received _____

Receipt Number _____

**LATE NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW**

Please type or print clearly

1. Name of Claimant(s) McCain Foods USA, Inc. Phone 208-678-6723

Mailing Address P.O. Box 10

City, State, Zip Burley, Idaho 83318

2. Date of Priority (Only one (1) per claim) January 10, 1957

3. Source of water supply (a) ground water

Which is tributary to (b)

4. a. Location of point of diversion is: Township 10S Range 22E Section 23

SWSW Lot 3 within Cassia County

SWSESW Lot 2 within Cassia County

SESESW Lot 2 within Cassia County

SWSWSE Lot 1 within Cassia County

SESWSE Lot 1 within Cassia County

Additional points of diversion if any:

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ ¼ of _____ ¼ of
_____ ¼, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc.), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.

6. Water is claimed for the following purposes:

(cfs) (acre feet)

For Industrial purposes from 01/01 to 12/31 amount 2.660 cfs

7. Total quantity claimed (a) 2.660 (cfs) and/or (b) (acre feet)

8. Total consumptive use claimed is

9. Non-irrigation uses; describe fully. (Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.)

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	
10S	22E	23											L3	L1			L2		
													I	I			I		

Total number of acres irrigated

11. In which county(ies) are lands listed above as place of use located? Cassia

12. Do you own the property listed above as place of use? Yes X No
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

14. Remarks: 45-2747, 45-2748, 45-2749, 45-2758, and 45-7137 share these points of diversion and place of use with 45-13970

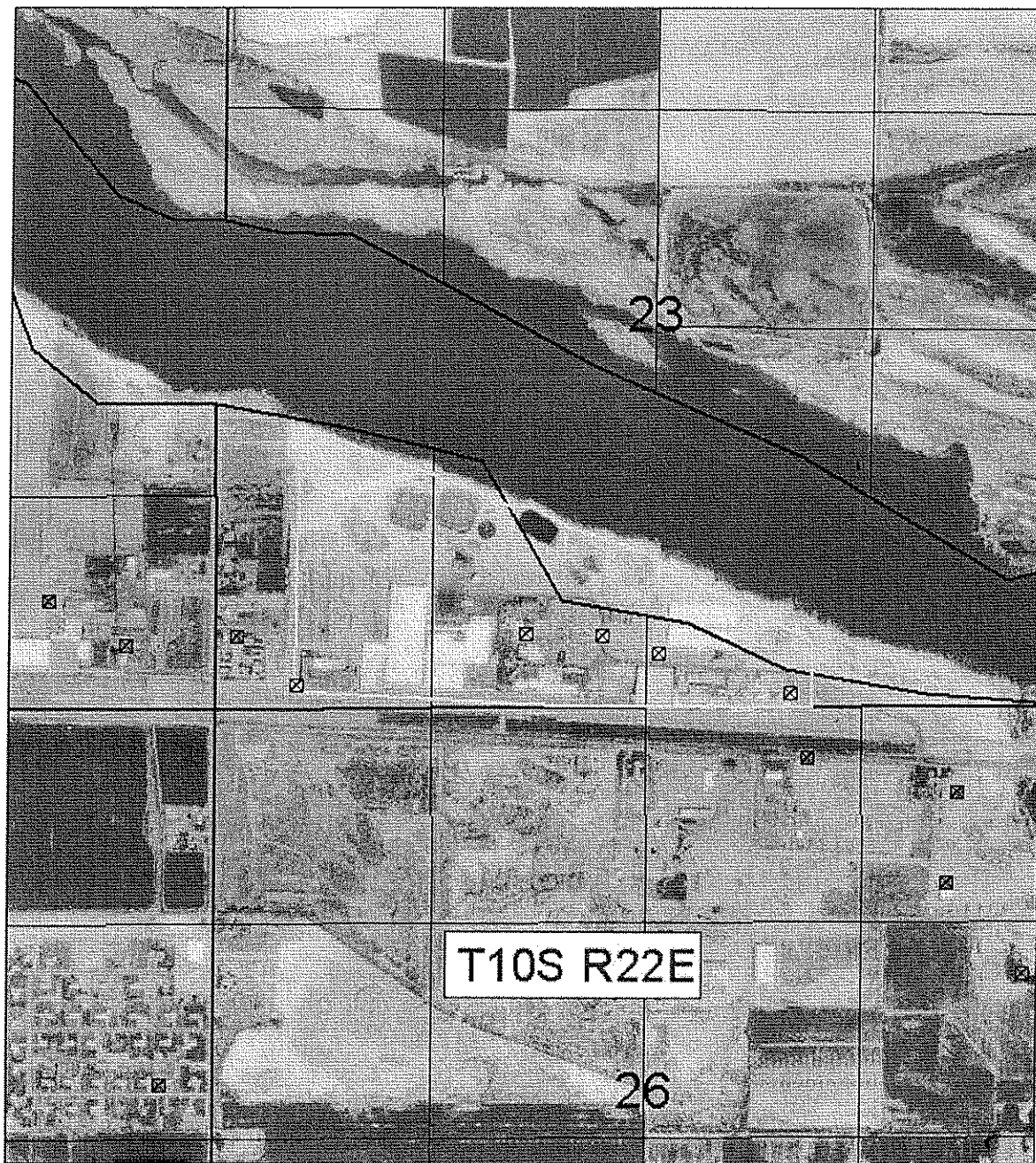
15. Basis of Claim (Check One) Beneficial Use X Posted Notice License Permit Decree

If applicable provide IDWR Water Right Number: License

Court Case Number Decree Date
Plaintiff vs Defendant

IDAHO DEPARTMENT OF WATER RESOURCES

45-2747, 45-2748, 45-2749,
45-2758, 45-2763 & 45-7137



1320 0 1320 Feet

-  Section Lines
-  Quarter/Quarter Lines
-  Place of Use
-  Point(s) of Diversion



GIS PLACE OF USE PRESENTATION
PHOTOGRAPHY: 1987 and/or 1988 NAPP
DATA ENTRY: 6/22/2004
DOUGLAS JONES

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will received notice in the Snake River Basin Adjudication." I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of Attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) _____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____ Plant Manager _____

Title

of _____ McCain Foods USA, Inc. (McCain Foods) – Burley, ID, that I have signed the foregoing

Organization

document in the space below as _____ Plant Manager _____ of _____ McCain Foods – Burley, ID _____

Title

Organization

and that the statements contained in the foregoing document are true and correct.

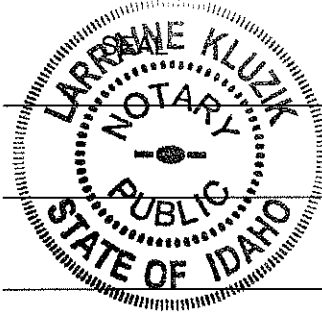
Signature of Authorized Agent David B Hines

Title and Organization _____ Plant Manager, McCain Foods – Burley, ID _____ Date September 20, 2006

State of Idaho/or _____)

County of CASSIA) SS.

Subscribed and sworn (or affirmed) before me this 20 day of SEPTEMBER ²⁰⁰⁶~~2005~~



Notary Public

Larraine Kluk

Residing at

1121-21st Highway ID 83336

My Commission Expires

08/27/2011

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

z/2099/6781

Josephine P. Beeman #1806
BEEMAN & ASSOCIATES, P.C.
409 West Jefferson Street
Boise, ID 83702
(208) 331-0950
(208) 331-0954 (Facsimile)

Attorneys for McCain Foods USA, Inc.

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA

Case No. 39576

)
) Subcase No. 45-13970
)
) **MEMORANDUM IN SUPPORT OF**
) **MOTION TO FILE LATE NOTICE OF**
) **CLAIM**
)

McCain Foods USA, Inc. (McCain Foods) files this memorandum in support of its Motion to File Late Notice of Claim 45-13970 to establish a more senior priority date of January 10, 1957 for SRBA ground water right claim 45-2763, which was previously licensed, claimed, and recommended with a priority date of January 23, 1962. SRBA Claim 45-13970 is filed as a result of the July 18, 2005 initial hearing on McCain Foods' objection to the priority date for 45-2763 because the initial hearing also discussed McCain Foods' Motion to Amend SRBA Claim 45-2763, which was lodged with the court July 18, 2005. Notice of Claim 45-2763, Director's Report for 45-2763, McCain Foods' Objection to 45-2763, and Amended Claim 45-2763 are Exhibits H, N, M, and K to the Affidavit of Celeste Thaine in Support of Motion to File Late Notice of Claim 45-13970.

PROCEDURAL AND FACTUAL BACKGROUND

On June 2, 1989, McCain Foods' predecessor, Ore-Ida Foods, filed with the Idaho Department of Water Resources (IDWR) an SRBA Notice of Claim for ground water right license 45-2763. SRBA Claim 45-2763 is associated with the operation of a potato processing facility in Burley, Idaho, for which the ground water right license was originally issued to Idaho

Potato Processors, Inc. (IPPI) in 1962.¹ SRBA Claim 45-2763 listed the licensed priority date -- January 23, 1962.

McCain Foods later purchased the Burley facility, and on February 4, 1999, filed an Amended Notice of Claim for 45-2763, indicating that the wells at the facility were interconnected.² On August 24, 2004, IDWR issued its Director's Report for SRBA Claim 45-2763, recommending that the SRBA court decree the January 23, 1962 licensed priority date.³ After the Director's Report was issued, a review of documents at the Idaho Historical Library in Boise, Idaho, indicated that the use of water under SRBA claim 45-2763 had begun in 1957.⁴

On January 7, 2005, McCain Foods timely filed an objection to the Director's Report for SRBA Claim 45-2763, indicating the priority date should be January 1957 based upon historical beneficial use of the water right.⁵ In the objection, McCain Foods indicated it would seek leave from the Court to amend the Notice of Claim for 45-2763 to seek the January 1957 priority date. No other claimant filed an objection to the Director's Report for 45-2763 or filed a response to McCain Foods' priority date objection to 45-2763.

¹ License 45-2763 is Exhibit G to the Affidavit of Celeste Thaine in Support of Motion to File Late Claim 45-13970.

² See 1999 Amended Notices of Claim for 45-2763, 45-2747, 45-2748, 45-2749, 45-2758, and 45-7137 (Affidavit of Celeste Thaine in Support of Motion to File Late Claim 45-13970, Exhibits O, P, Q, R, S, and T, respectively).

³ See Affidavit of Celeste Thaine in Support of Motion to File Late Notice of Claim 45-13970, Exhibit N.

⁴ See Affidavit of Celeste Thaine in Support of Motion to Amend SRBA Claim 45-2763, Exhibits A and B. This affidavit is Exhibit L to the Affidavit of Celeste Thaine in Support of Motion to File Late Claim 45-13970.

⁵ See Affidavit of Celeste Thaine in Support of Motion to File Late Notice of Claim 45-13970, Exhibit M.

On July 18, 2005, McCain Foods filed a Motion to Amend Claim 45-2763 seeking the January 10, 1957 priority date.⁶ The Motion to Amend included historical documents whose information is summarized here. The potato processing facility in Burley, Idaho, was under construction in August of 1957, and the processing operation was to begin in September 1957. By March 1958, the Burley Chamber of Commerce described the potato processing facility as operating. This information from late 1957 and early 1958 accords with Harley McDowell's 1962 statement on the Application for Permit which IPPI filed to initiate the process to obtain water right license 45-2763 for this well that actually had begun operation in 1957. Mr. McDowell's statement: "This well was actually drilled 1/10/57, by Boley-Henry-Weech, well drillers of Murtaugh, Idaho. All of the work was completed on that date, the well was put to use at that time and has been used continuously since then."⁷

The Motion to Amend was heard before Special Master Terrence A. Dolan on July 18, 2005. IDWR did not oppose the Motion to Amend 45-2763, but did recommend that McCain Foods file a Motion to File a Late Notice of Claim for the January 10, 1957 priority date. Only the priority date, not the rate of diversion (2.66 cfs) or the diverted volume (1371.8 acre-feet per year), was to be re-examined. McCain Foods' late claim 45-13970 matches the Director's Report for 45-2763, except for the January 10, 1957 priority date based on beneficial use.⁸

⁶ The Motion to Amend SRBA Claim 45-2763 and the Affidavit of Celeste Thaine in Support of the Motion to Amend (both previously filed in subcase 45-2763) are included with the Motion to File Late Notice of Claim, as exhibits I and L to the Affidavit of Celeste Thaine in Support of Motion to File Late Notice of Claim 45-13970.

⁷ See Affidavit of Celeste Thaine in Support of Motion to Amend SRBA Claim 45-2763, Exhibits A, B, and C. This affidavit is Exhibit L to the Affidavit of Celeste Thaine in Support of Motion to File Late Notice of Claim 45-13970.

⁸ The August 24, 2004, Director's Report for 45-2763 is Exhibit N to the Affidavit of Celeste Thaine in Support of Motion to File Late Notice of Claim 45-13970.

In addition to the materials previously submitted with the Motion to Amend SRBA Claim 45-2763, the Motion to File Late Claim 45-13970 includes information which McCain Foods obtained subsequent to the 2005 SRBA hearing:

1. Boley Harvey Weech well drillers' report from January 1957 (Exhibit U to Affidavit of Celeste Thaine in Support of Motion to File Late Notice of Claim 45-13970);
2. Affidavit of Charlotte Smith (attached to the Motion to File Late Notice of Claim);
3. Affidavit of Leroy Klamm (attached to the Motion to File Late Notice of Claim); and
4. Affidavit of Clark Fairchild (attached to the Motion to File Late Notice of Claim).

The well drillers' report confirms that the well was drilled for IPPI and that drilling was completed January 10, 1957, as stated in writing by IPPI's Harley M. McDowell when he filed the application for permit for this well on January 23, 1962.

The well drillers' report further supports the testimony of three (3) deponents that the well was in use in 1957. The depositions were submitted to IDWR on March 30, 1962 as part of the Proof of Completion of Works for Permit G-30373, which became ground water license 45-2763.⁹ S. E. Johnson, then President of IPPI, stated, "This water has been used in potato processing since the well was drilled in 1957 and has been used continuously since then." W. F. Hansen, traffic and credit manager of the plant, stated "This water has been used for potato processing since 1957." John Haubner, plant engineer, stated, "The water has been used in the processing of potatoes since 1957." The deponents also testified to the continuous use of the well from 1957 through March 1962. According to S. E. Johnson, the continuous use began when "the well was drilled in 1957." The Boley Harvey Weech well drillers' report confirms that drilling was completed January 10, 1957.

⁹ The depositions are located in IDWR's license file for ground water right 45-2763. See Affidavit of Celeste Thaine in Support of Motion to File Late Notice of Claim 45-13970, Exhibits D, E, and F.

To further corroborate the well's use from January 10, 1957, McCain Foods obtained affidavits of individuals who were living in Burley in 1957 and who each also later worked at the IPPI plant, before the plant was sold to Ore-Ida. The IPPI plant had only one well and water from this well was used to fresh pack potatoes even before the plant began making French fries and tater tots. See affidavits of Clark Fairchild at ¶2 and Leroy Klamm at ¶3 attached in support of SRBA claim 45-13970. The well's operation did not change when Ore-Ida purchased the plant in 1965. See Affidavit of Leroy Klamm at ¶2.

LEGAL STANDARD

The standard for evaluating a motion to file a late notice of claim will be reviewed under the criteria set forth in I.R.C.P. 55(c). *Snake River Basin Adjudication Administrative Order 1 § 4(d)(2)(d)*. Rule 55(c) of the Idaho Rules of Civil Procedure applies a “good cause” standard for setting aside an entry of default. “The Court, therefore, applies a “good cause” standard to motions to file late notices of claims.” *Order Granting Motions to File Late Notices of Claims, Water Right Claim: 71-10886 et al. (Idaho Water Resource Board) at 1 (SRBA Dist. Court) (July 27, 2005)*. The I.R.C.P. 55(c) good cause standard takes into account the following factors:

- 1) whether the default was willful;
- 2) whether setting aside the judgment would prejudice the opponent; and
- 3) as with Rule 60(b) motion, whether a meritorious position has been presented.

Id. The “good cause” standard is a more lenient threshold than the Rule 60(b) standard. *Order on Motion to Set Aside Partial Decrees and File Late Objections, Subcase Nos. 65-07267 et al (A.L. Cattle) at 7 (SRBA Dist. Court) (Jan. 31, 2001)*. See also *McFarland v. Curtis*, 123 Idaho 931, 935, 854 P.2d 275, 279 (May 25, 1993). To establish a meritorious defense, the moving party must allege facts, which if established, would constitute a defense to the action, and the facts supporting the defense must be detailed. *A.L. Cattle at 6*.

Under Rule 55(c) the setting aside of an entry of default or of a default judgment are both within the sound discretion of the trial court and will not be reversed on appeal unless an abuse of discretion clearly appears. *Clear Springs Trout Company v. Anthony*, 123 Idaho 141, 143, 845 P.2d 559, 561 (1992). Judgments by default are not favored and there is a preference for setting them aside so that cases can be decided on the merits. *Baldwin v. Baldwin*, 114 Idaho 525, 528, 757 P.2d 1244, 1247 (Ct. App. 1988).

**GOOD CAUSE EXISTS TO GRANT THE
MOTION TO FILE A LATE NOTICE CLAIM**

In this case, the elements to establish “good cause” are met. The first element of the standard is whether the default was willful.

SRBA Claim 45-2763 was timely filed and recommended to the SRBA court. Prior to the SRBA objection deadline for recommended right 45-2763 and based on statements in the underlying public license file at IDWR, McCain Foods obtained historical documents corroborating an earlier beneficial use priority date of 1957 for the well. Based on this information, McCain Foods filed a timely objection, indicating its understanding that the 1957 priority was appropriate and stating its intention to amend SRBA claim 45-2763, accordingly. This was done, and as a result of discussion with Special Master Dolan and IDWR at the initial hearing on objected 45-2763, this Motion and Notice of Late Claim 45-13970 were filed.

McCain Foods’ did not file a late notice of claim prior to the Director’s Report for Basin 45 because McCain Foods had already claimed all the elements for this ground water right. When the earlier priority date was investigated and corroborated by research after the director’s report was filed, McCain Foods filed an objection as to priority date. In the objection, notice was provided that McCain Foods would seek leave from the Court to amend the claim for 45-2763 to seek a January 1957 priority date. No responses were filed to the objection. The failure to file a

late claim before the Director's Report was not willful, as McCain Foods did not have this additional historical information until after the Director's Report was filed.

**PREJUDICE TO OPPONENTS IS OUTWEIGHED BY THE
MANIFEST INJUSTICE TO MCCAIN FOODS IF IT IS NOT ALLOWED
TO PROCEED WITH ITS CLAIM**

Allowing McCain Foods to proceed with SRBA Late Claim 45-13970 far outweighs any possible prejudice to other claimants. No other claimant filed a response when McCain Foods' objection to 45-2763 stated the priority date should be January 1957, not March 1962. At the July 2005 hearing on 45-2763, IDWR advised the Special Master that it did not oppose McCain Foods' effort to document a priority date of January 10, 1957. The Late Claim 45-1397 includes the same rate of diversion (2.66 cfs) and diverted volume (1371.8 acre-feet per year) as were recommended for SRBA claim 45-2763. The January 10, 1957 beneficial use priority date in the late claim is the only difference.

McCain Foods, as the claimant, has provided additional data on the extent of ground water use prior to January 1962 when IPPI began the licensing process for the well's water use.¹⁰ McCain Foods found and provided the well drillers' report confirming that the well associated with license 45-2763 (and now SRBA Late Claim 45-13970) was completed January 10, 1957 and would pump 1800 gpm. This well drilling information corroborates statements in the IDWR license file, and although the well drillers' report was on file at IDWR, it was not readily accessible and was obtained only through McCain Foods' continued efforts. *See* Affidavit of Celeste Thaine in Support of Motion to File Late Notice of Claim 45-13970 at ¶s 5, 6, 7, 8, and 9.

In addition, McCain Foods located individuals who were living in the Burley area when the IPPI plant began operating and who then went to work at the plant while it was still owned

¹⁰ The license file at IDWR included statements that the well began continuous use in 1957. *See supra*: (1) text accompanying footnote 7, p. 3; and (2) paragraph of text in which footnote 9 appears,

by IPPI. The affidavits of these individuals establish that there was only one well, its capacity was 1800 gpm, and that the well's operation by IPPI was unchanged when Ore-Ida purchased the plant. See affidavits of Leroy Klamm at ¶s 2, 3, and 7 and Clark Fairchild at ¶ 3.

The plant's operation was acclaimed in the community in 1957 and 1958, and there is testimony and physical evidence that the well's use dates from January 10, 1957. Further, the use was continuous from the time of drilling and included water for the fresh pack of potatoes before the production of French fries, tater tots, and hash browns. See affidavit of Clark Fairchild at ¶2. It would appear to present no prejudice to other claimants (they had notice in the community and in the SRBA process), but it would be manifestly unjust to McCain Foods not to have the benefit of a more senior beneficial use priority date for its ground water use.

THE FACTS ALLEGED STATE A MERITORIOUS DEFENSE

The facts set forth in SRBA Claim 45-13970 are supported by the affidavits of Leroy Klamm, Clark Fairchild, and Charlotte Smith; the 1957 Boley, Henry, Weech Drillers Report, the article published on August 22, 1957 in the Burley Herald Newspaper, and the March 15, 1958 Burley Chamber of Commerce brochure; and documents from IDWR license file 45-2763, including the original Application for Permit for 45-2763, and the 1962 depositions of S. E. Johnson, W. F. Hansen, and John Haubner. These facts, if proved, would entitle McCain Foods to establish the basis for water right 45-13970, including a January 10, 1957, priority date. Thus the third element of meritorious defense is met.

McCain Foods undertook an evaluation of historical records and data to establish and confirm the appropriate elements for the claimed water right. As a result of those investigations, it has been determined that the claim for 45-13970 is correct. The elements to prove "good cause" are satisfied. The above detailed facts support the issuance of a water right decree for 45-13970.

p. 4. Because this information was already in the public license file McCain Foods proceeded to seek additional authority to support a 1957 priority date.

CONCLUSION

Based on the foregoing, McCain Foods respectfully requests that its Motion to File Late Notice Claim 45-13970 be granted.

RESPECTFULLY SUBMITTED this 21st day of September 2006.

BEEMAN & ASSOCIATES, P.C.

By Josephine P. Beeman
Josephine P. Beeman

CERTIFICATE OF SERVICE

The undersigned certifies that on the 27th day of September 2006, a true and correct copy of the foregoing document was sent to the following by the method indicated:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

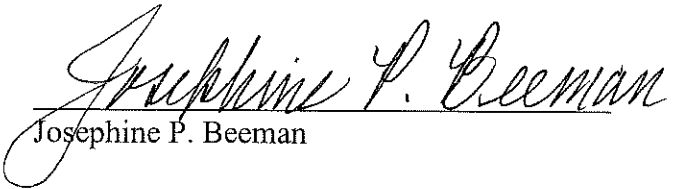
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Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Chris Bromley
Deputy Attorney General
Idaho Department of Water Resources
322 East Front Street
PO Box 83720
Boise, Idaho 83720-0098


Josephine P. Beeman

Z:\2099\6780

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Fax: (208) 331-0954
jo.beeman@beemanlaw.com

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA	)	AFFIDAVIT OF CHARLOTTE SMITH
	)	IN SUPPORT OF SRBA CLAIM
Case No. 39576	)	45-13970

_____)

STATE OF IDAHO	)	
	) ss:	
COUNTY OF MINIDOKA	)	

I, Charlotte Smith, being of sound mind and body and over the age of 21 years do hereby state on my personal knowledge that:

(1) Beginning in the fall of 1958 through the late summer of 1961, I worked at the Idaho Potato Processors, Inc.'s (IPPI) plant in Burley, Idaho.

(2) IPPI production at the Burley plant included French fries, tater tots, hash browns (frozen, refrigeration, blanchers).

(3) I worked eight (8) hours, even weekends, per shift. The plant operated three (3) shifts and at different times I worked each shift.

(4) Production stopped a few weeks each year, may be up to six (6) weeks. Prior to the plant restarting production, I would return to work to assist in cleaning the machinery.

(5) My responsibilities also included cleaning the trim room.

(6) My father worked at the IPPI plant in Burley before it opened until 1977. He worked in carpentry.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 5th day of September 2006.

Charlotte Smith
CHARLOTTE SMITH

SUBSCRIBED AND SWORN before me on this 5 day of September 2006.



Z:\2099\7084

Patricia D. Dawes
Notary Public for California
Residing at Folsom, California
Commission Expires: Jan. 6, 2008

CERTIFICATE OF SERVICE

The undersigned certifies that on the 27th day of September 2006, a true and correct copy of the foregoing document was sent to the following by the method indicated:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
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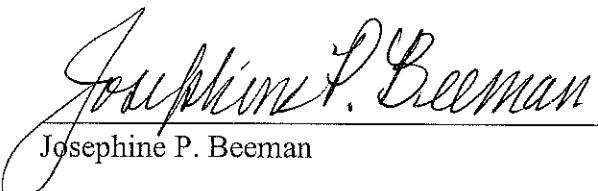
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Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Chris Bromley
Deputy Attorney General
Idaho Department of Water Resources
322 East Front Street
PO Box 83720
Boise, Idaho 83720-0098


Josephine P. Beeman

Josephine P. Beeman #1806
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409 West Jefferson Street
Boise, ID 83702
Phone: (208) 331-0950
Fax: (208) 331-0954
jo.beeman@beemanlaw.com

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA	)	AFFIDAVIT OF LEROY KLAMM
	)	IN SUPPORT OF SRBA CLAIM
	)	45-13970
Case No. 39576	)	
_____	)	

STATE OF IDAHO	)	
	) ss:	
COUNTY OF MINIDOKA	)	

I, Leroy Klamm, being of sound mind and body and over the age of 21 years do hereby state based on my personal knowledge that:

(1) I started working at the Ore-Ida plant in Burley, Idaho in 1961 as a loading dock operator. Ore-Ida purchased the Idaho Potato Processors, Inc. (IPPI) plant in Burley in 1965. From 1965 through my retirement at the end of 1994, I was the Boiler and Refrigeration Supervisor at the Burley plants.

(2) Starting in 1965, after Ore-Ida purchased IPPI, my duties expanded to include operation of all utilities for the IPPI Burley plant. The processing operation was ongoing when Ore-Ida purchased the IPPI Burley plant and the processing did not change at the plant after the purchase by Ore-Ida.

(3) There was only one well at the IPPI plant, which was located at the east end of the plant. The well had a 200 hp pump and operated at a maximum of 1,800 gpm (45-2763). This was the only source of water for the IPPI Burley plant.

(4) The well operated 24 hours per day during production and also operated to support cleanup during production shutdown as well as boiler operation for heating during wintertime shutdown. During production, the plant required as much as 20,000 pounds of steam per hour.

(5) The cold storage condensers, cooling of the compressors, and restrooms required water year-round. In order to avoid any potential contamination of the plants' primary production for food service, there was no reuse of water, not even of the water used for cooling.

(6) The plant could be in production as many as 340 days in a year. Production was never less than 280 days per year. The well always operated 24 hours per day to support production. During the 1980s, the days of production were at the higher end of that range.

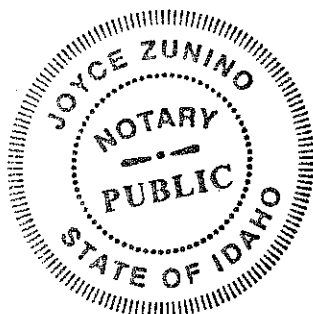
(7) During production, the plant operated 24 hours per day, with three employee shifts, in order to maximize continuous production. The well for the plant operated at maximum flow, 1800 gpm, 24 hours per day during production.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 11 day of August 2006.

Leroy Klamm
LEROY KLAMM

SUBSCRIBED AND SWORN before me on this 11th day of August 2006.



Joyce Zunino
Notary Public for Idaho
Residing at 051507, Idaho
Commission Expires: Jan 21

Z:\2099\7077

CERTIFICATE OF SERVICE

The undersigned certifies that on the 27th day of September 2006, a true and correct copy of the foregoing document was sent to the following by the method indicated:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

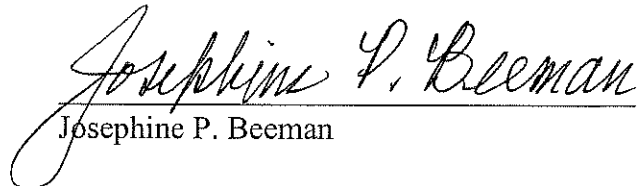
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United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Chris Bromley
Deputy Attorney General
Idaho Department of Water Resources
322 East Front Street
PO Box 83720
Boise, Idaho 83720-0098



Josephine P. Beeman

Josephine P. Beeman #1806
BEEMAN & ASSOCIATES, P.C.
409 West Jefferson Street
Boise, ID 83702
Phone: (208) 331-0950
Fax: (208) 331-0954
jo.beeman@beemanlaw.com

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA	)	AFFIDAVIT OF CLARK FAIRCHILD
	)	IN SUPPORT OF SRBA CLAIM
Case No. 39576	)	45-13970
	)	
_____	)	

STATE OF IDAHO	)	
	) ss:	
COUNTY OF MINIDOKA	)	

I, Clark Fairchild, being of sound mind and body and over the age of 21 years do hereby state on my personal knowledge that:

- (1) I worked at the potato plant in Burley, Idaho from September 9, 1960 to until my retirement in 1992. In 1960, the potato plant was owned by Idaho Potato Processors, Inc. (IPPI)
- (2) I was the Maintenance, Building, and Electrical Supervisor at the plant from 1970 to 1992.
- (3) I lived in Burley, Idaho prior to my employment with IPPI and I also knew individuals who worked at the plant prior to my employment. The processing operation at the Burley plant began approximately in 1958 and before the processing operation the potatoes were fresh packed at the plant, and water for this process was provided by a well located on the property.

(4) When I started work in 1960, there was a well at the east end of the IPPI plant. It had a 200 hp pump and operated at a maximum of 1800 gpm.

(5) During production, the plant operated 24 hours per day. The well located on the east end of the plant was used at maximum flow 24 hours per day during production. In addition, the well operated to provide fire protection, support cleanup during production shutdown as well as boiler operation for heating during wintertime shutdown. A domestic line came off of the well to provide water for domestic use, including the restrooms. The cold storage condensers and cooling of the compressors required water year-round, as did the restrooms.

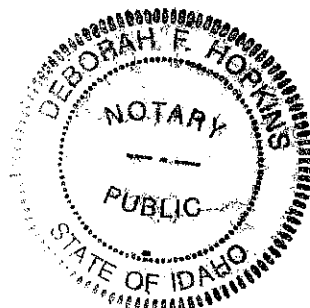
(6) The plant could be in production as many as 340 days in a year, but generally operated 250 days per year. The well always operated 24 hours per day to support production. In addition, the well operated year round to support the boiler, cold storage, cooling, and domestic purposes.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 11 day of Sept. 2006.

Clark Fairchild
CLARK FAIRCHILD

SUBSCRIBED AND SWORN before me on this 11 day of September 2006.



Deborah F. Hopkins
Notary Public for Idaho
Residing at Rupert, Idaho
Commission Expires: 4-15-2009

Z:\2099\7075

CERTIFICATE OF SERVICE

The undersigned certifies that on the 27th day of September 2006, a true and correct copy of the foregoing document was sent to the following by the method indicated:

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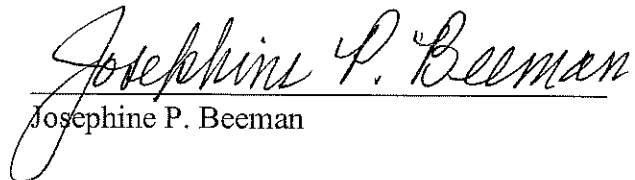
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Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Chris Bromley
Deputy Attorney General
Idaho Department of Water Resources
322 East Front Street
PO Box 83720
Boise, Idaho 83720-0098



Josephine P. Beeman

Josephine P. Beeman #1806
Beeman & Associates, P.C.
409 West Jefferson Street
Boise, ID 83702
(208) 331-0950
(208) 331-0954 (Facsimile)
jo.beeman@beemanlaw.com

Attorneys for McCain Foods USA, Inc.

**IN THE DISTRICT COURT FOR THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF GOODING**

	)	Subcase No. 45-13970
	)	
In Re SRBA	)	AFFIDAVIT OF CELESTE THAINE
	)	IN SUPPORT OF MCCAIN FOODS'
Case No. 39576	)	MOTION TO FILE LATE NOTICE
	)	OF CLAIM 45-13970
	)	
_____	)	

STATE OF IDAHO	)
	) ss:
COUNTY OF ADA	)

After first being duly sworn upon oath, I, Celeste Thaine, state that I am competent to testify. I make each of the following statements on the basis of my personal knowledge

1. Since September 2004, I have worked as a paralegal at Beeman & Associates, P.C.

2. In my work with Beeman & Associates, P.C., I use the electronic database developed and maintained by the Idaho Department of Water Resources (the Department). That database includes, among other things, water right records and well drilling reports. My work also includes review of the Department's original physical (paper) records as well as copies of those records obtained by Beeman & Associates.

3. I attest that the following attached documents are copies from license file 45-2763 maintained by the Department.

Exhibit D: March 30, 1962 Deposition of Holder of S. E. Johnson
Exhibit E: March 30, 1962 Deposition of Witness of W. F. Hansen
Exhibit F: March 30, 1962 Deposition of Witness of John Haubner
Exhibit G: June 13, 1962 License G-30373 (45-2763)

4. I attest that the following attached documents are copies from the SRBA claim files for water rights 45-2747, 45-2748, 45-2749, 45-2758, 45-2763, and 45-7137 maintained by the Department.

Exhibit H: June 2, 1989 Notice of Claim to a Water Right 45-2763
Exhibit I: July 18, 2005 Motion to File: Amended Notice of Claim 45-2763
Exhibit J: July 18, 2005 Memorandum in Support of Motion to Amend Claim 45-2763
Exhibit K: July 18, 2005 Amended Notice of Claim to a Water Right 45-2763
Exhibit L: July 18, 2005 Affidavit of Celeste Thaine In Support of Motion to Amend Claim 45-2763
Exhibit M: January 7, 2005 Standard Form 1 Objection to Director's Report for 45-2763
Exhibit N: August 24, 2004 Director's Report for 45-2763
Exhibit O: February 4, 1999 Amended Notice of Claim 45-2763
Exhibit P: February 4, 1999 Amended Notice of Claim 45-2747
Exhibit Q: February 4, 1999 Amended Notice of Claim 45-2748
Exhibit R: February 4, 1999 Amended Notice of Claim 45-2749
Exhibit S: February 4, 1999 Amended Notice of Claim 45-2758

Exhibit T: February 4, 1999 Amended Notice of Claim 45-7137

5. I researched the electronic database of well driller reports maintained by the Department, and I did not locate any report regarding the well drilled in 1957 at the Idaho Potato Processors, Inc. plant in Burley, Idaho.

6. As a result of my research in the Department's electronic database, on March 1, 2006, I telephoned Ronda Cooley of the Department to ask if a paper copy of the well drillers' report was available despite its absence from the electronic database. Ms. Cooley could not locate a copy of said report.

7. On March 2, 2006, I continued my efforts to obtain a copy of the well drillers' report and again telephoned the Department and spoke to Mark Slifka. Mr. Slifka also could not locate a copy of the 1957 well report. On the same day, I then spoke to John Sharkey of the Department regarding obtaining a copy of the well drillers' report.

8. To facilitate the search, I provided the Department pertinent information regarding the well, including the year the well was drilled, the legal description of the location of the well, the name of the entity that drilled the well, the location and name of the plant where the well is located, and the name of the organization who requested the well be drilled.

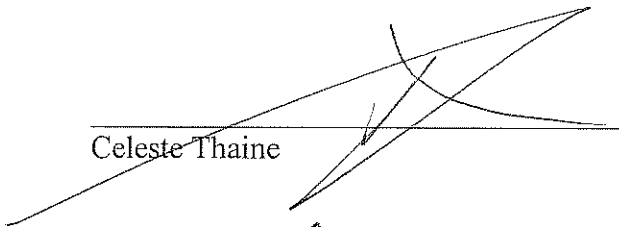
9. On March 2, 2006, John Sharkey faxed to the office of Beeman and Associates a copy of the Boley, Henry, Weech Well Drillers' Report of the well drilled in 1957 at the Idaho Potato Processors, Inc. plant in Burley, Idaho.

10. I attest the following attached document is a copy of the Boley, Henry, Weech Well Drillers' Report of January 1957 I received from John Sharkey of the Idaho Department of Water Resources.

Exhibit U: Boley, Henry, Weech Well Drillers' Report

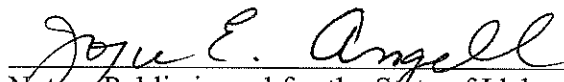
FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 29 day of August 2006.


Celeste Thaine

SUBSCRIBED AND SWORN to before me this 29 day of August 2006.




Notary Public in and for the State of Idaho
Residing in: Boise, Idaho
My Commission Expires: 7-29-08

CERTIFICATE OF SERVICE

The undersigned certifies that on the 27th day of September 2006, a true and correct copy of the foregoing document was sent to the following by the method indicated:

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550 West Fort Street, MSC 033
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Chris Bromley
Deputy Attorney General
Idaho Department of Water Resources
322 East Front Street
PO Box 83720
Boise, Idaho 83720-0098



Josephine P. Beeman

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RECEIVED
APR 4 1962

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Department of Reclamation

Permit No. G-30373

Proof of Application of Water to Beneficial Use
and Completion of Works

Deposition of Holder

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. Idaho Potato Processors, Inc., Box 749, Burley, Idaho - Potato Processors
by S. E. Johnson, President

Ques. 2. If acting in behalf of corporation, state its name, principal place of business (if a foreign corporation, give name of postoffice of statutory agent), your position with reference to same, and your authority for appearing in its behalf.

Ans. See above. I am president of the corporation & I have authority for appearing
in its behalf as per the Articles of Incorporation.

Ques. 3. State number and date of permit, and date of priority you propose to establish under the permit.

Ans. G-30373 - 1/29/62. Date of priority - 1/23/62

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. Source of water is from a drilled well located in NE¹/₄NE¹/₄, Sec. 26, T10S - R22 E.

Ques. 5. Describe your works of diversion, and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use. If a well, state depth of well, depth and size of casing and depth to water. If pump is used, state discharge of pump and tell how it was measured or determined. If sprinkler irrigation, give number and size of nozzles and operating pressure.

Ans. The well has a diameter of 20" and is cased to a depth of 120'. The well is
295' deep, water is pumped from 200' and the static water level is 178'. The well
is equipped with a Layne Bowler turbine type pump with a 200 hp motor. The pump
will discharge 1200 GPM under 60# pressure.

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have actually been irrigated with said water.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. The water is used for commercial purposes, in Lot 1, Sec. 23; NE¹/₄NE¹/₄, Sec. 26,
T. 10 S. - R. 22 E.

Ques. 6-a If this is a ground water permit, give name and address of person that drilled the well.

Ans. Boley, Henry, Weech - Well drillers; Murtaugh, Idaho

Exhibit D
Affidavit of Celeste Thaine in
Support of Motion to File Late Claim
45-13970

30373

Ques. 7. If for other than irrigation purposes; state how applied, amount of horse power generated, etc.

Ans. The water is used in the processing of potatoes

Ques. 8. What is the minimum amount of water required for the purpose specified above?

Ans. We need all that we have.

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans. No other holder.

Ques. 10. State when, how, in what amount and to what extent the water diverted under above mentioned permit has been used.

Ans. This water has been used in potato processing since the well was drilled in 1957 and has been used continuously since then.

Ques. 11. State when, how, in what amount and to what extent waters other than those diverted under the above mentioned permit have been diverted and applied to beneficial use upon the lands herein described. Give full particulars regarding such other appropriations and rights claimed thereunder.

Ans. None.

IDAHO POTATO PROCESSORS, INC.

(Sign) BY:

S. E. JOHNSON, President

I hereby certify that the foregoing testimony was read to the above subscribed before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Boise County of Ada State of Idaho, on this 30th day of March, A. D. 1962.

Joan H. Bain

My commission expires 6/20/65

30373

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Department of Reclamation

Permit No. G-30373

Proof of Application of Water to Beneficial Use

Deposition of Witness and Completion of Work

The deposition of two witnesses, on this form, taken separately, required in each case.

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. W. F. Hansen; age, 37; Burley, Idaho; traffic & credit manager; postoffice address, 1959 Burton St., Burley, Idaho.

Ques. 2. Are you acquainted with Idaho Potato Processors, Inc., the holder of Permit No. G-30373? How long have you known him and where does he reside?

Ans. I have known them 3 years and know the plant is located at Burley, Idaho.

Ques. 3. Have you read or heard read said Permit No. G-30373, and are you familiar with its provisions and conditions?

Ans. Yes.

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. Source of the water is a well drilled in NE 1/4 Sec. 26, T10S-R22E to a depth of 295'. This is a 20" hole and is equipped with Layne & Bowler 200 hp pump & motor.

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. 130".

Ques. 6. (Pumps) How much water in cubic feet per second, miner's inches, or gallons per minute have you seen the pump deliver, and how did you measure or estimate the amount?

Ans. 130". This is an estimate from having seen pumps deliver in the past.

Exhibit E

Affidavit of Celeste Thaine in
Support of Motion to File Late Claim
45-13970

Ques. 7. State for what purpose water is used and at what place. (If for irrigation, give each subdivision in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. Water is used for potato processing in Lot 1, Sec. 23, T1N2E, Sec. 26, T10S, R22E.

Ques. 8. If for power or other purposes than irrigation, state how water has been applied and to what extent.

Ans. This water has been used for potato processing since 1957.

Ques. 9. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

Ans. None.

Ques. 10. Have you any interest in the works, water or lands above mentioned? If so, in what way and to what extent?

Ans. No.

Ques. 11. State when, how, in what amount and to what extent you have witnessed the application to beneficial use of water diverted under said permit.

Ans. I have watched this development for the past three years.

(Signed)

W. F. Hansen

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in Boise, County of Ada, State of Idaho, on this 30 day of March, A. D. 1962

John H. Bain

Notary Public.

My commission expires 6/20/65

30373

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

RECEIVED
APR 4 1962
Department of Reclamation

Permit No. G-30373

Proof of Application of Water to Beneficial Use
and Completion of Work
Deposition of Witness

The deposition of two witnesses, on this form, taken separately, required in each case.

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. My name is John Haubner, I am 51 yrs. of age, my postoffice address is 618 Albion Ave., Burley, Idaho. My occupation is an engineer.

Ques. 2. Are you acquainted with Idaho Potato Processors, Inc., the holder of Permit No. G-30373? How long have you known him and where does he reside?

Ans. I have known this company for 3 years and know that it is located in Burley, Idaho.

Ques. 3. Have you read or heard read said Permit No. G-30373, and are you familiar with its provisions and conditions?

Ans. Yes.

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. Water is obtained from a drill well in NE 1/4, Sec. 26, T10S, R22E. The well is 295' deep, pumps from 200', water stands at 178', the diameter of the well is 20" & it is cased to 120'. The pump is a turbine type Layne Bowler, equip with a 200 hp motor.

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. The works will convey 133".

Ques. 6. (Pumps) How much water in cubic feet per second, miner's inches, or gallons per minute have you seen the pump deliver, and how did you measure or estimate the amount?

Ans. I have seen the pump deliver 133". I did not see this measured, but know that it was measured by a well drilling company in Murtaugh, Idaho.

Exhibit F
Affidavit of Celeste Thaine in
Support of Motion to File Late Claim
45-13970

Ques. 7. State for what purpose water is used and at what place. (If for irrigation, give each subdivision in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. The water is used for commercial purposes in Lot 1, Sec. 23; N¹/₄NE¹/₄, Sec. 26, T10S. R22E., B.M.

Ques. 8. If for power or other purposes than irrigation, state how water has been applied and to what extent.

Ans. The water has been used in the processing of potatoes since 1957.

Ques. 9. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

Ans.

Ques. 10. Have you any interest in the works, water or lands above mentioned? If so, in what way and to what extent?

Ans. I have no interest.

Ques. 11. State when, how, in what amount and to what extent you have witnessed the application to beneficial use of water diverted under said permit.

Ans. I have witnessed this use for the past 3 years as plant engineer.

(Signed)

John E. Haubner

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in Boise, County of Ada, State of Idaho, on this 30th day of March, A. D. 1962.

Joan H. Bain
Joan H. Bain

Notary Public.

My commission expires 6/20/65

30373

State of Idaho License and Certificate of Water Right

Water License No. G-30373Amount 2.66 c.f.s.

Water District No. _____

Priority January 23, 1962

THIS IS TO CERTIFY that IDAHO POTATO PROCESSORS, INC.
of Burley, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated January 23, 1962; that Permit No. G-30373
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
2.66 second feet, was issued thereunder on June 13, 1962, showing that said works
were completed on the 30th day of March, 1962; and that on the 30th
day of March, 1962,
IDAHO POTATO PROCESSORS, INC.

of Burley, State of Idaho, made proof to the satisfaction of the
State Reclamation Engineer of Idaho, of the right to use the waters of a well
, a tributary of subterranean flow, for the purpose of commercial use
, under Use Permit No. G-30373 of the Department of Reclamation
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho,
and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume
12 of Licenses at page 7296, on the 13 day of June, 1962;
The right hereby confirmed dates from January 23, 1962;
The Point of Diversion is located

In the NE 1/4 NE 1/4, Sec. 26, Tp. 10 S, R. 22 E, B. M. Cassia County

That the amount of water to which such right is entitled and hereby confirmed, for the purposes
aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall
not exceed 2.66 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
10 S	22 E	23 26	Lot 1 NONE - COMMERCIAL USE		

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place
of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this
13th day of June, 1962.

RALPH W. THOMAS

Deputy State Reclamation Engineer.

(SEAL)

Exhibit G

Affidavit of Celeste Thaine in

Support of Motion to File Late Claim

45-13970

45-2763
98-9527

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A45-02763
Date Received: 5/17/1989
Receipt No: 0007182
Received By: LR 6/02/89

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ORE-IDA FOODS INC. 208-383-6100
Address: BOX 10
BOISE, ID 83703

2. Date of Priority: JAN 23, 1962

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
10S	22E	~~26~~ 23	~~NE~~ SW	~~NE~~ SE	CASSIA

5. Description of diverting works:

WELL, PUMP, PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
~~COMMERCIAL~~ INDUSTRIAL	1/1	12/31	2.660		

7. Total Quantity Appropriated is:
2.660 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is

Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
10S	22E	23	~~SE~~ SW	SE	1	~~COMMER~~ INDUSTRIAL
		26	~~NE~~ NW	NE		~~COMMER~~ INDUSTRIAL
			~~NW~~	~~NE~~		~~COMMER~~

11. Place of use in counties: CASSIA

A45-02763

Page 1

Date: 05/17/89

Exhibit H

Affidavit of Celeste Thaine in
Support of Motion to File Late Claim
45-13970

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: LICENSE
Water Right Number: 30373

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do do not ✓ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

For Organizations:

I do solemnly swear or affirm that I am Sr Engr Engr of
One-Ida Foods INC Organization, that I have signed the foregoing
document in the space below as Sr Engr Engr of
One-Ida Foods Inc Organization and that the statements contained in the
foregoing document are true and correct.

Ass EPLen
Signature of Authorized Agent

Sr Engr Engr One-Ida Foods Inc
Title and Organization

June 2, 1989
Date

RECEIVED

State of Idaho

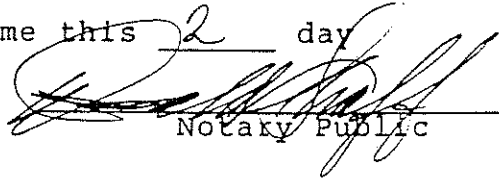
County of

Ada

)
) SS.
)

Subscribed and sworn (or affirmed) before me this 2 day

of June 19 89


Notary Public

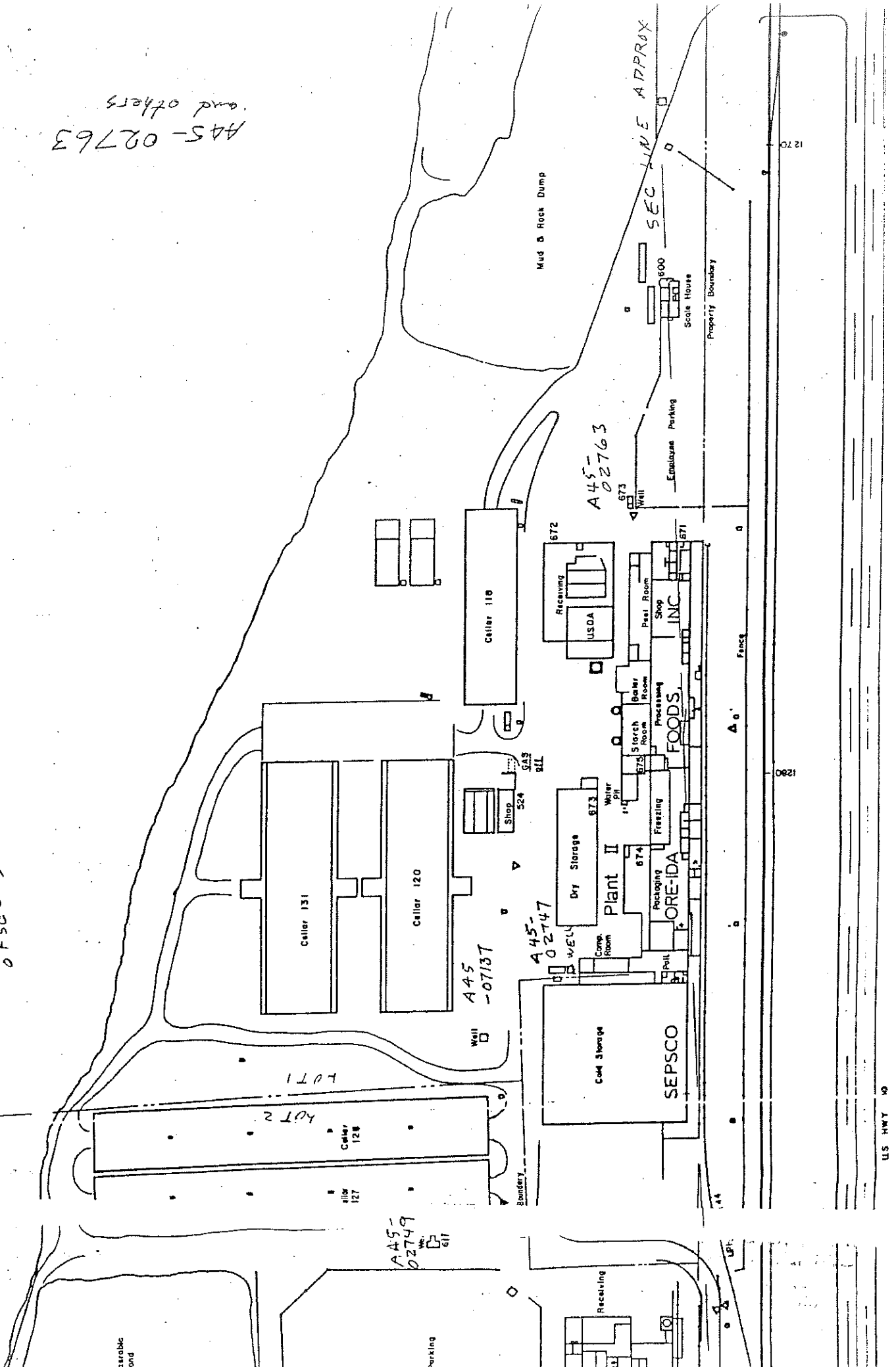
Seal

Residing at Boise, ID

My Commission Expires June 10, 1994

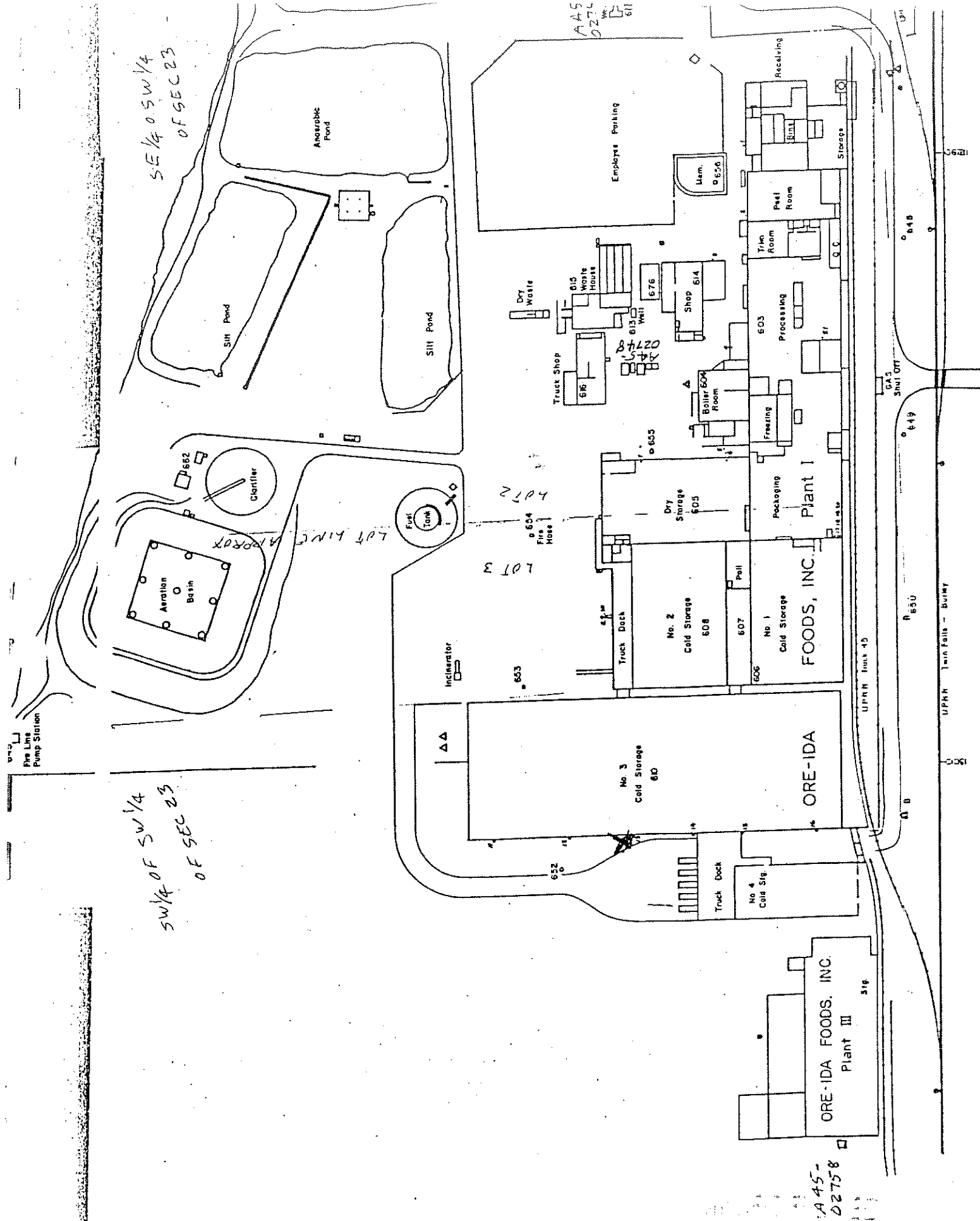
SW 1/4 OF SE 1/4
0 FSEC 23

445-02763 and others



SW 1/4 OF SW 1/4
OF SEC 23

SE 1/4 OF SW 1/4
OF SEC 23



RECEIVED

JUL 19 2005

DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA) Subcase 45-02763
)
)
Case 39576) STANDARD FORM 4
)
) MOTION TO FILE:
) AMENDED NOTICE OF CLAIM
_____)

I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

I am an attorney representing McCain Foods USA, Inc.

My name is Josephine P. Beeman

My address is Beeman & Associates, P.C., 409 West Jefferson Street, Boise, Idaho 83702

My phone number is (208) 331-0950 FAX: (208) 331-0954

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

✕ I must amend my Notice of Claim to the use of water in the SRBA because:

Water right 45-02763 was licensed with a priority date of January 23, 1962 and was claimed and recommended in the SRBA with the same priority date. Based on historical documents, actual beneficial use began in January 1957.

✕ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

See accompanying Memorandum in Support of Motion to Amend Claim;
Affidavit of Celeste Thaine.

I have attached:

An Amended Notice of Claim (available from IDWR).

Payment of the following additional fees required by IDWR: None Required

VERIFICATION

State of Idaho)

) ss:

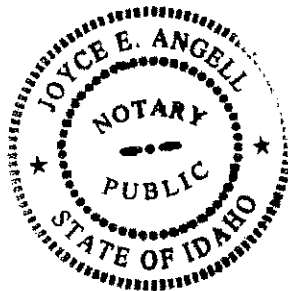
County of Ada)

Josephine P. Beeman, being first duly sworn, upon oath, deposes and says:

That I am the attorney for the party/claimant filing this motion for amended claim, and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Josephine P. Beeman
Josephine P. Beeman
Attorney for McCain Foods USA, Inc.

Subscribed and sworn to before me on July 18, 2005.



Joyce E. Angell
Notary Public for the State of Idaho
Residing at: Boise, Idaho
My Commission expires: 7-29-08

CERTIFICATE OF MAILING

I certify that on July 18, 2005, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

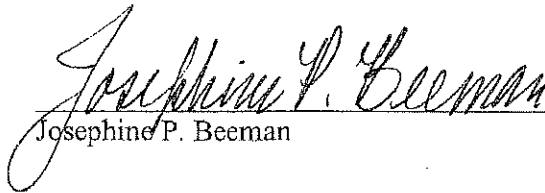
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.

McCain Foods USA, Inc.
Attn: Jay Ulrich
P.O. Box 10
Burley, Idaho 83318


Josephine P. Beeman

Z:\2099\6634

RECEIVED

JUL 19 2005

DEPARTMENT OF
WATER RESOURCES

Josephine P. Beeman #1806
BEEMAN & ASSOCIATES, P.C.
409 West Jefferson Street
Boise, Idaho 83702
(208) 331-0950
(208) 331-0954 (facsimile)
office@beemanlaw.com

Attorneys for McCain Foods USA, Inc.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

)
) Subcase No. 45-02763
)
)

Case No. 39576

)
) MEMORANDUM IN SUPPORT OF
) MOTION TO AMEND CLAIM
)
)
)
)

DESCRIPTIVE SUMMARY

This memorandum is filed in support of the Motion to Amend Claim for 45-02763 filed by McCain Foods USA, Inc. (McCain Foods), by and through its attorney of record, Josephine P. Beeman, Beeman & Associates, P.C.

Exhibit J
Affidavit of Celeste Thaine in
Support of Motion to File Late Claim
45-13970

PROCEDURAL BACKGROUND

On June 02, 1989, McCain Foods' predecessor, Ore-Ida Foods, filed with the Idaho Department of Water Resources (IDWR) an SRBA Notice of Claim for ground water right license 45-02763 associated with the operation of its potato processing facility in Burley, Idaho. The SRBA claim listed the licensed priority date of January 23, 1962. McCain Foods later purchased the facility and, on February 04, 1999, amended SRBA claim 45-02763 without changing the claimed priority date. On August 30, 2004 IDWR issued its director's report for 45-02763 recommending that the SRBA court decree the January 23, 1962 priority date.

After the director's report was issued, it was determined upon review of historical documents obtained at the Idaho Historical Library in Boise, Idaho that the potato processing plant in Burley, Idaho was under construction in August of 1957, and the processing operation was to begin in the latter part of September of 1957.¹ By March 1958, the Burley Chamber of Commerce described the operating potato processing plant.² This contemporary public information from late 1957/early 1958 accords with the statement in IDWR's license file for 45-02763 that, "This well was actually drilled 1/10/57, by Boley-Henry-Wasch, well drillers of Murtaugh, Idaho. All of the work was completed on that date, the well was put to use at that time and has been used continuously since then."³

On January 07, 2005, McCain Foods timely filed an objection to the director's report for 45-02763, indicating that the priority date should be January 1957 based upon historical beneficial use of the water right. Because the original Notice of Claim filed by Ore-Ida Foods and the amended Notice of Claim filed by McCain Foods did not claim a 1957 priority date,

¹ See affidavit of Celeste Thaine, Exhibit A: August 22, 1957 news article from the Burley Herald Newspaper.

² See affidavit of Celeste Thaine, Exhibit B, page 3, "Information about Burley, Idaho", a brochure dated March 15, 1958 and published by the Burley Chamber of Commerce.

³ See affidavit of Celeste Thaine, Exhibit C, page 2, Application for Permit 45-02763.

McCain indicated in its objection that it would seek leave from the Court to amend the Notice of Claim for 45-02763 to seek the earlier priority date.

No other claimant filed an objection to the director's report for 45-02763 or filed a response to McCain Foods' priority date objection to 45-02763.

LEGAL STANDARD

Pursuant to AO1, a motion to file an amended notice of claim "will be reviewed under the criteria of I.R.C.P. 55(c)." *AO1 § 4(d)(2)(e)*. Rule 55(c) applies a "good cause" standard for setting aside an entry of default. *Order on Motion to Set Aside Partial Decrees and File Late Objections, Subcase Nos. 65-07267 et al (A.L. Cattle) at 7 (SRBA Dist. Court) (Jan. 31, 2001)*(hereinafter *A.L. Cattle*). This standard is more lenient than the standard under Rule 60(b). *Id.* The Rule 55(c) standard requires examination of the following factors to determine whether "good cause" exists:

1. Whether the default was willful;
2. Whether setting aside the judgment would prejudice the opponent; and
3. Whether a meritorious position has been presented.

Id. To establish a meritorious defense, the moving party must allege facts, which if established, would constitute a defense to the action, and the facts supporting the defense must be detailed.

Id. at 6. In the case of claim amendments, AO1 provides that "[l]eave to amend a notice of claim shall be freely given when justice so requires." *AO1 § 4(d)(2)(k)*.

GOOD CAUSE EXISTS TO GRANT THE MOTION TO FILE AN AMENDED CLAIM.

In this case, the elements to establish "good cause" are satisfied. The first element is met. McCain Foods' failure to amend its claim before the director's report was filed was not willful. The correct priority date did not come to light until after the director's report was filed.

Following issuance of the director's report for Basin 45, McCain Foods communicated with its legal counsel concerning the priority date for water right 45-02763. Based upon those

discussions and the subsequent search of historical documents, it was determined that the director's report for 45-02763 contained an error with respect to the priority date. McCain Foods, through its attorney, timely filed an objection. In the objection, notice was provided that McCain Foods would seek leave from the court to amend the claim for 45-02763 to seek a January 1957 priority date. No responses were filed to the objection.

McCain Foods has sought to comply with the requirements of Administrative Order 1 concerning the timing for seeking leave from the court to amend claims. Pursuant to AO1 § 10(f), "claims shall be amended at or before the Initial Hearing." McCain Foods' motion is timely, because it is filed to be heard at the Initial Hearing.

The second element also is satisfied. Because no one else has filed an objection or response in this subcase, there is no prejudice to any opponent. Also, IDWR's legal counsel, Deputy Attorney General Chris Bromley, has indicated that IDWR does not oppose McCain Foods' motion to amend claim 45-02763.

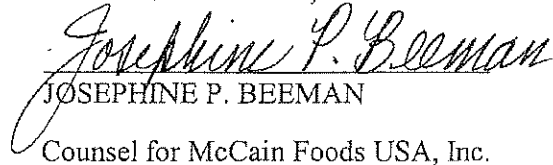
The third element of meritorious defense also has been met. Filed in conjunction with the Motion to File Amended Notice of Claim is the proposed Amended Notice of Claim for 45-02763. The amended claim alleges the specific facts regarding the priority date, such that if those facts are proved in this case, they would entitle McCain Foods to the earlier priority date. Also, the August 22, 1957 Burley Herald Newspaper, the March 15, 1958 Burley Chamber of Commerce brochure, and the original Application for Permit for 45-2763, set forth an additional factual basis for the claimed priority date. *See e.g., Exhibits A, B, and C to Affidavit of Celeste A. Thaine.* Together, the above detailed facts, if established, would support the issuance of a water right decree for 45-02763 with a priority date of January 10, 1957, as set forth in the amended notice of claim.

CONCLUSION

Based on the foregoing, McCain Foods respectfully requests that its Motion to Amend Claim for water right no. 45-02763 be granted.

DATED this 18th day of July 2005.

Beeman & Associates, P.C.


JOSEPHINE P. BEEMAN

Counsel for McCain Foods USA, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that on the 18th day of July 2005, a true and correct copy of the within document was sent to the following person(s) by U. S. Mail:

IDWR Document Depository
P. O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resources Division
550 W. Fort Street, MSC 033
Boise, ID 83724


JOSEPHINE P. BEEMAN

z/2099/6659

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

**IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM**

CIVIL CASE NUMBER: 39576

Ident. Number A45-02763
Date Received _____
Receipt Number _____

**AMENDED NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW**

Please type or print clearly

1. Name of Claimant(s) McCain Foods USA Inc. Phone 208-678-9431
Attn: Jay Ulrich
Mailing Address P.O. Box 10
City, State, Zip Burley, Idaho 83318
2. Date of Priority (Only one (1) per claim) January 10, 1957
3. Source of water supply (a) ground water
Which is tributary to (b)
4. a. Location of point of diversion is: Township 10S Range 22E Section 23
SWSW Lot 3 within Cassia County
SWSESW Lot 2 within Cassia County
SESESW Lot 2 within Cassia County
SWSWSE Lot 1 within Cassia County
SESWSE Lot 1 within Cassia County
Additional points of diversion if any:
b. If instream flow, beginning point of claimed instream flow is:
Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of
_____ 1/4, Govt. Lot _____ B.M., County of _____
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc.), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.

6. Water is claimed for the following purposes:

For Industrial purposes from 01/01 to 12/31 amount 2.660 cfs
7. Total quantity claimed (a) 2.660 (cfs) and/or (b) (acre feet)
8. Total consumptive use claimed is

Amended Notice of Claim Last Name McCain Foods USA Inc.

Exhibit K
Affidavit of Celeste Thaine in
Support of Motion to File Late Claim
45-13970

Ident. Number A45-02763 page 1

9. Non-irrigation uses; describe fully. (Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.)
10. Description of place of use:
- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

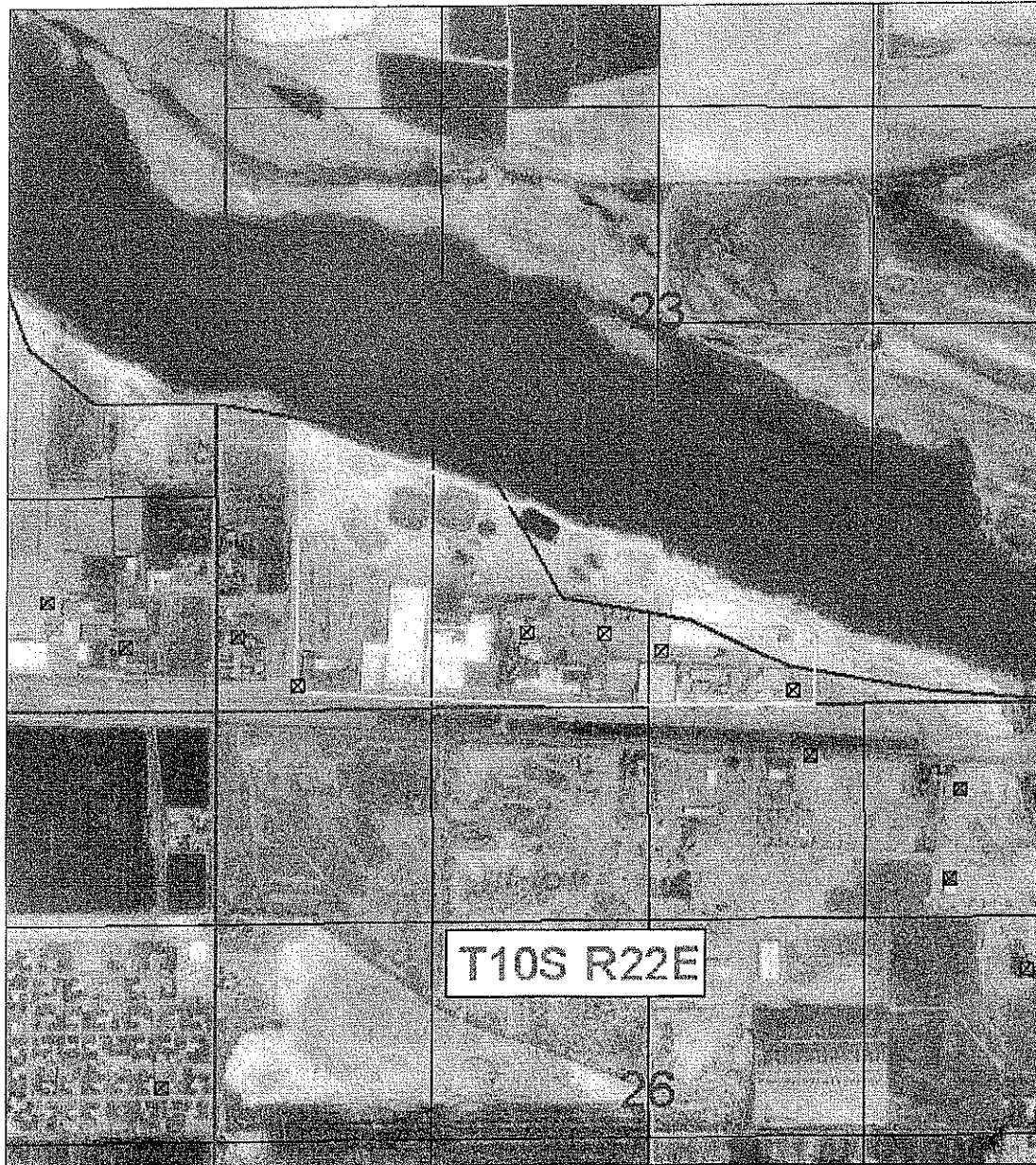
TWP	RNG	SEC	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	
10S	22E	23											L3	L1			L2		
													I	I			I		

Total number of acres irrigated

11. In which county (ies) are lands listed above as place of use located? Cassia
12. Do you own the property listed above as place of use? Yes X No
If your answer is No, describe in Remarks below the authority you have to claim this water right.
13. Describe any other water rights used at the same place and for the same purposes as described above.
14. Remarks: 45-2747, 45-2748, 45-2749, 45-2758 and 45-7137 share these points of diversion and place of use with 45-2763
15. Basis of Claim (Check One) Beneficial Use X Posted Notice License Permit Decree
If applicable provide IDWR Water Right Number : License 45-02763
Court Case Number Decree Date
Plaintiff vs Defendant

IDAHO DEPARTMENT OF WATER RESOURCES

45-2747, 45-2748, 45-2749,
45-2758, 45-2763 & 45-7137



1320 0 1320 Feet

-  Section Lines
-  Quarter/Quarter Lines
- Place of Use
- Point(s) of Diversion



GIS PLACE OF USE PRESENTATION
PHOTOGRAPHY: 1987 and/or 1988 NAFF
DATA ENTRY: 6/22/2004
DOUGLAS JONES

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will received notice in the Snake River Basin Adjudication." I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of Attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) _____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____ Vice President Western Operations _____

of _____ McCain Foods USA, Inc. _____, that I have signed the foregoing _____
Organization Title

document in the space below as _____ Vice President Western Operations _____ of _____ McCain Foods USA, Inc. _____
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ *John Bernier* _____

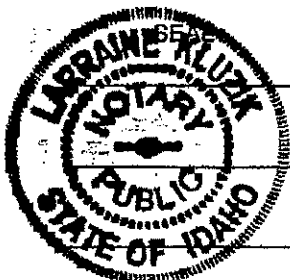
Title and Organization _____ Vice President Western Operations _____ Date _____ July 18, 2005 _____

State of Idaho/or IDAHO)

County of CASSIA)

SS.

Subscribed and sworn (or affirmed) before me this 18 day of July 2005



Notary Public

Residing at

1121-21st Highway ID 83336

My Commission Expires

08/27/2005

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

z/2099/6658

RECEIVED
JUL 19 2005
DEPARTMENT OF
WATER RESOURCES

Josephine P. Beeman #1806
BEEMAN & ASSOCIATES, P.C.
409 West Jefferson Street
Boise, ID 83702
(208) 331-0950
(208) 331-0954 (Facsimile)
office@beemanlaw.com

Attorneys for McCain Foods USA, Inc.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA) Subcase No. 45-2763
) (McCain Foods USA, Inc.)
Case No. 39576) **AFFIDAVIT OF CELESTE A. THAINE IN**
) **SUPPORT OF MOTION TO AMEND SRBA CLAIM**
) **45-2763**

STATE OF IDAHO)
) SS:
COUNTY OF ADA)

I, Celeste A. Thaine, make this affidavit in support of McCain Foods USA, Inc. (McCain Foods') Motion to File Amended Notice of Claim.

I am over 21 years old and competent to testify. I make each of the following statements on the basis of my personal knowledge.

1. I am an attorney licensed to practice law in the States of Illinois, Alaska, and Washington. Since September 2004, I have worked as a paralegal at Beeman & Associates, P.C., while I prepare to take the Idaho bar.
2. In January 2005, I reviewed documents at the Idaho State Historical Library in Boise, Idaho pertaining to the potato processing plant in Burley, Idaho now owned by McCain Foods.

3. I attest that the following attached documents are true and correct copies of the original documents which I reviewed at the Idaho State Historical Library.

- A. Exhibit A: August 22, 1957 news article from the Burley Herald Newspaper.
- B. Exhibit B: "Information about Burley, Idaho", a brochure dated March 15, 1958 and published by the Burley Chamber of Commerce.

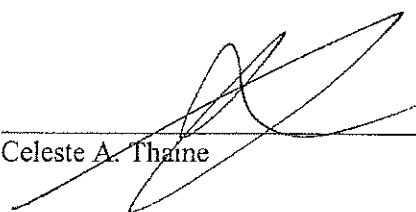
4. In my work with Beeman & Associates, P.C., I frequently use the electronic database of water rights developed and maintained by the Idaho Department of Water Resources (IDWR).

5. I attest that the following attached document is a copy of an electronic file maintained by IDWR.

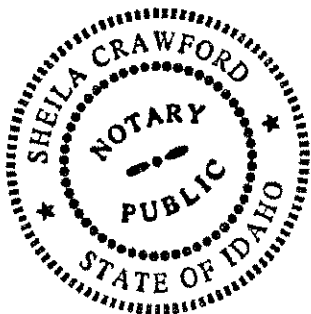
- A. Exhibit C: Application for Permit 45-02763.

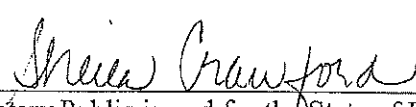
FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 18th day of July 2005.


Celeste A. Thaine

SUBSCRIBED AND SWORN to before me this 18th day of July 2005.




Notary Public in and for the State of Idaho
Residing at: Boise, Idaho
My Commission Expires: 5-9-08

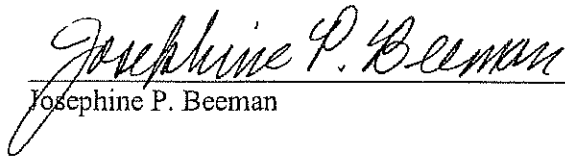
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of July 2005, I caused a true copy of the foregoing **AFFIDAVIT OF CELESTE A. THAINE IN SUPPORT OF MOTION TO AMEND SRBA CLAIM 45-2763** to be served on the following by U.S. First Class Mail:

IDWR Document Depository
P. O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resources Division
550 W. Fort Street, MSC 033
Boise, ID 83724



Josephine P. Beeman

Z:\1776\500\SJ6611

Little Rock Church—
Missouri (Sunday)
Overland 121st
Burley, Idaho
nd J. Mueller, Pastor
ORehard 8-1147
August 18, 1937: Sun-
at 10:00 a.m. Divine Ser-
a.m. Sunday School
Park, Burley 12:00 noon.

Mrs. Neal Farr and two
of Idaho Falls are vis-
ing with his mother, Mrs.
arr.

EGGS
Small Grade "A"
3 doz. 1.00

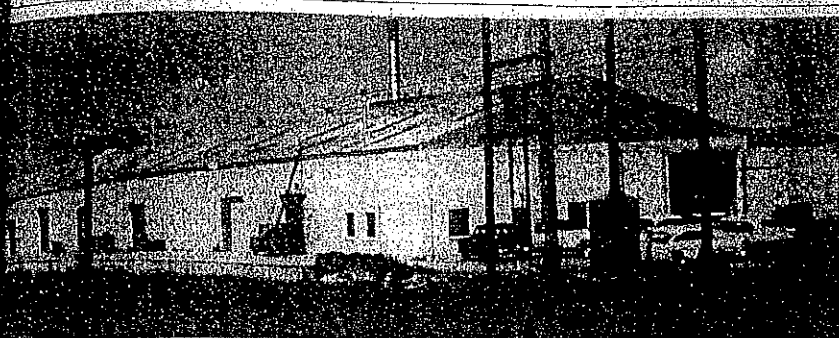
Dole's Pineapple
JUICE
Frozen, Concentrated
8 for 1.00

Bel-Air
STRAWBERRIES
Fresh Frozen
6 for 1.00

and Savings
All Your
ing 40 oz. 12.10

12.10
Zee 4 pak 12.10

Libby 12oz.
SALTINES N.B.C.
LIMA EBANS
PEPPER
SALT
BROCCOLI
BETTY CROCKER
TOM. JUICE
TUNA FISH
KLEENEX
BLACK TEA



Idaho Potato Processors, Inc. is pictured above at its location west of Burley. Other structures will be built with the frozen potato processing operation of the firm.

September Operation Start by New Processing Plant

Idaho Potato Processors, Inc., an industrial newcomer to Burley, will enter the first phase of its potato processing operation near the latter part of September, it was anticipated by officials this week.

At that time the firm launches production of frozen French fries, a product which will find its way to consumer markets all over the United States. Construction of facilities and installation of processing equipment is still underway at the new, modern plant west of Burley.

When completed, the total value of all structures and equipment will represent an investment of \$1,000,000 by the entrepreneurs.

Harold West, general manager, said the plant in the beginning will employ 150 persons and operate on a 24-hour basis, seven days a week. These employees—of whom about 60 per cent are women—will be drawn primarily from the Burley area, with the exception of certain specialized technicians.

West said the female staff will be assigned primarily to quality control work in the processing operation although some will work in the packaging department and business offices. Equipment operation, warehouse operation in the fresh and finished potato aspects and general maintenance are tasks to be handled by men employees.

Directing the plant are West as general manager; Henry Chase, formerly of Nampa, production manager; and Ray Lewis, Jerome, maintenance superintendent.

Ownership of the firm is vested in 12 major stockholders, nine of which are Idaho residents. These stockholders are K. C. Barlow, L. H. Harris and Charles D. Haight, all Burley; Winslow Whiteley, Oakley; Charles Colner & Sons, Twin Falls; S. E. Johnson and James F. Watson, both Parma; Doyle and Darwin Symms, Caldwell; Norman C. Lodge, Caldwell; Hyman Plotzky and Mr. and Mrs. Harry Wickman, all of Chicago.

It is interesting to note that most of these stockholders are individually connected with other Idaho agricultural enterprises, either in production or handling aspects.

Although the firm will concentrate on processing French fries, production will eventually lead into by-products such as frozen potato patties, frozen hash browns, frozen mashed potatoes and other frozen products now under experimentation. The manager

Veterans of Bu Rec Are Honored

Twenty-nine "service" awards were presented this week to veterans of the Bureau of Reclamation, all of them connected with the river control, storage and power divisions. The awards, presented by project superintendent M. L. Tillery, honored five veterans of 30 years or more service, eight for 20 years or more service and 16 for 10 years or more service.

The 30-year men honored were George Barnard, Willie Clayton, Thurman Culley, Carl Jensen and Floyd Weeks.

All the men are connected with the Minidoka Project, Department of Interior, working with the Bureau of Reclamation in its water control and storage programs on the upper 250 miles of Snake River. Power features include Minidoka and Palisades power plants.

Receiving 20-year service pins were J. Cloyd Culley, Charles Finley, John Fredrickson, Archie Heath, A. C. MacIntyre, George Pletcher, Glenn Strimmons and Ed Wilkie.

Ten-year pins went to J. Olen Ashcraft, Clarence Bagnall, Jim Brame, Orville Broadhead, Woody Bryers, Dave Carpenter, Sr., Granddaddy Dunn, Henry Frazier, Lowell French, Willard Hawkins, Alex Massio, Haskell Mills, Ello Purin, Morris Purin, Robert Southern and John Williams.

Fair, Rodeo Schedule

Thursday
8 p.m. 1st section rodeo, Kids Night, Grassed Pig Scramble, Aberdeen Bools & Saddle Club.

Friday
1 p.m.—Grand Parade— from West Park.
2:30 p.m.—Horse Races, fair grounds.

8 p.m.—Second Section rodeo, Cassia Sheriff's Posse.

Saturday
2:30 p.m.—Horse races.
8 p.m.—Final Rodeo Show, 1938 Queen Crowned, Weber Sheriff's Posse.

Fair Board and Queen, Guests Of Rotary Club

Cassia County Fair, came in for considerable attention at the Tuesday noon meeting of Burley Rotary.

The 21-year-old soldier was graduated from Burley high school in 1934.

Rodeo Sho

Paul Bank Charter To Idaho Bank & T

Announcement was made this week, vice-president and manager of Trust Co., of Burley that a Bank Charter for a Branch of the Idaho Bank & Trust Co. in Paul.

The charter for the new bank was granted by R. U. Spaulding, commissioner of finance for the State of Idaho. The branch also has full approval of the Federal Deposit Insurance Corporation, so that its deposits will be insured on the same basis as any of the other member banks who meet the banking standards of this organization.

Starley stated that officials of his organization have been considering a location for the site of the new bank in Paul and feel that a definite site will be chosen in the near future.

Starley said that his bank is highly pleased to be able to offer Paul and the surrounding area direct banking service. He further expressed the opinion that members of his organization feel that this will develop into one of the finest agricultural areas in the state, one important factor being that it is practically the exact geographical center of the 17,000-acre tract being developed as a veteran's project by the Bureau of Reclamation.

Idaho Bank and Trust Co. is one of the largest state chartered banks in Idaho and has served Southeastern Idaho in a banking capacity for nearly 30 years.

The bank's head office is at Pocatello with other branches at Burley, Blackfoot and a drive-in branch at Pocatello.

The new branch will be in operation as soon as the location is selected and the banking facilities are ready.

Loan Group Sets Volume At \$450,000

Refinancing of indebtedness, purchase of land, improvements to land and buildings, and general farm operations were among the purposes for which farmers and ranchers in this area obtained long-term credit from the Cassia County National Farm Loan Association of Burley during the fiscal year ended June 30, 1937.

Glen R. Kunaau, association secretary-treasurer, said the association's 12-month loan volume reached \$450,000.00. This money was obtained by association members in Cassia county, the territory served by the association.

Mr. Kunaau explained that the association is cooperatively owned by its member-borrowers and that this association and 64 similar associations in Idaho, Montana, Oregon and Washington own the Federal Land Bank of Spokane, for which they make and service loans. "In other words," said Mr. Kunaau, "the Spokane bank is owned by its borrowers through their national farm loan associations."

Since organization the Cassia County NFLA has extended \$10,000 in credit to farmers and

Area Open Monday

The Burley system will be open Monday to registration at all get underway the morning, and will be rushed by all prior to expedite the work.

Heyburn also open all day at noon, Tuesday and the not in inaugurated for

aders at Heyburn Sunday, Aug. 22, and have a birth and

isted for Parade

A grand parade on reported today by parade chairman, and entrins will at 1 p.m.

the parade are re-semble on the north

the parade will be the southwest corner and proceed south

and then east to then north on Ory

Idaho street. The will then turn east the East park.

Teacher Completed

A full teaching Heyburn schools has this week by on, principal.

members are Lund principal; Stevens Holyoak, Desmond

ary Lou Baird, Jun- Josephine Durfee

licker, 8th grade; and Ann Stocking, Alice Hamilton and

grades; Elsa Me- and Verona "Fav- and Verona "Fav-

It is interesting to note that most of these stockholders are individually connected with other Idaho agricultural enterprises, either in production or handling aspects.

Although the firm will concentrate on processing French fries, production will eventually lead into by-products such as frozen potato patties, frozen hash browns, frozen mashed potatoes and other frozen products now under experimentation. The manager

Arrives in Korea

1ST CAV. Korea (AHTN) Army Pvt. Earl C. Stuart, whose parents, Mr. and Mrs. L. V. Therman, live on Route 1, Heyburn, recently arrived in Korea and is now a member of the 1st Cavalry Division.

Stuart, a rifleman in Company I of the division's 18th Infantry Regiment, entered the Army in December 1936. He was stationed at Fort Ord, Calif.

The 21-year-old soldier was graduated from Burley high school in 1934.

Exhibit A
Affidavit of Celeste A. Thaine
45-2763

INFORMATION ABOUT BURLEY, IDAHO

Thank you for your recent inquiry regarding Burley. The following data concerning our community is respectfully submitted for your information. If more information is needed please write us again.

POPULATION: Estimate, 7,000 with trading area of 40,000 people. The population, based on the service outlets of the municipally-owned electric and water utilities, is 6500. The Grandview Addition, which is a part of the city but not yet incorporated into the city limits, adds another 500, making a total population of 7,000. Cassia County, according to the 1950 census, has a population of 14,402, but is presently considered above 15,000.

LOCATION: The largest community in the county and the county seat, located just south of the famous Snake River. It is 200 miles from Salt Lake City, Utah and 182 miles southeast of Boise. We are at the fork of Highway 30 North and 30 South and at the intersection of Highways 30 and 27. Burley is the center of the new 120,000 acre irrigation development known as the Minidoka Project of the U.S. Reclamation Service. Another 70,000 acres of new land have been put under cultivation to the south, west and east of Burley, all privately owned.

HOUSING: Houses are available sometimes on a rental basis. Homes are available for purchase in practically every range. Rentals, both houses and apartments, run at an average of \$65.00 per month and are not plentiful at the present time. The situation promises to be improved in the near future, however.

EMPLOYMENT: Burley is efficiently served by an office of the State Employment Security Agency, 1256 Albion Ave., Burley, Idaho. This office acts as a clearing house for job opportunities and employees. All inquiries pertaining to employment should be directed to that office.

CLIMATE: Altitude, 4,151 feet above sea level. Annual rainfall - 15.12 inches. Average year round temperature of 48 degrees. We are favored with a mild and healthful climate, mild winters and warm, though not severe summers. The high last year was 100 degrees in August and the low was 0 degrees in January. There is seldom over 6 inches of snow on the ground at one time. There are always cool summer nights and a general lack of humidity.

GOVERNMENT: Burley has a Mayor-Council government. The City Hall is located at 14th street and Overland Avenue.

ASSESSED VALUATION: City: 8 - 15% of the replacement value, depending upon real, improvement, merchandise and personal. County - \$13,201,574.39. Independent School District #151 - \$12,767,540.25.

TAX RATE: Burley - total levy - 26 mills. School district - 41 mills. Cassia County - \$2.13 per \$100.00.

BONDED INDEBTEDNESS: Burley - none. School district as of next July 1st, \$802,000.00. Cassia County - \$450,000 for a new 50 bed hospital which will be completed in the spring of 1959.

VEHICLE REGISTRATIONS: Passenger cars - 5,200. Trucks - 2,700.

CHURCHES: Eighteen; representing 12 denominations. All active and doing an effective work. All churches new and modern.

ORGANIZATIONS: All nationally known fraternal and civic organizations are represented.

SCHOOLS: Three grade schools, Junior High School and a new modern \$540,000 high school building. All buildings modern and adequate.

HOSPITALS: A new 50 bed hospital will be completed by the spring of 1959 and will be turned over, by the county, to the LDS church, to operate it at no expense to the county.

Exhibit B

Affidavit of Celeste A. Thaine

45-2763

LIBRARY: A new city-owned library will be built this year at a cost of between \$50,000 and \$60,000, the money having been saved in a building fund over the past several years.

NEWSPAPERS: Semi-weekly, Burley Herald-Bulletin; Reminder, an advertising and news sheet, delivered tri-weekly, without cost, to the entire county; Twin Falls Times-News; Salt Lake Tribune and The Deseret News are all delivered daily.

RADIO: Locally owned KBAR 1230 kilocycles.

TELEVISION: Good reception from stations KLIJ Twin Falls and KID, Idaho Falls (Channels 11 and 3 respectively).

PARKS AND RECREATION FACILITIES: All municipally owned. Three public parks strategically located throughout the city. Nine-hole golf course situated on the edge of Snake River. A new club house will be completed sometime this year. A new modern swimming pool. An up-to-date baseball field. Center of one of the West's major outdoor sports area with boating, fishing, hunting and skiing within easy driving distance and only a 2 hour drive to famous Sun Valley.

HOTELS AND MOTELS: Nine new and modern motels, some with television. Five hotels with complete range of prices and accommodations.

TRANSPORTATION: Greyhound Bus - Six schedules east and six west, daily. Trailways Bus - Three schedules east and three west, daily. West Coast Airlines - Three flights east and three west, daily. Union Pacific Railroad - One schedule east and one west, daily. There are a number of nationally known truck lines which maintain daily schedules out of Burley.

AIRPORT: Municipally owned. Three lighted runways. Located half mile from the city. Has an air traffic communications station and airport beacon, operated by Civil Aeronautics Administration. The Roundy Skyways Service renders charter service and conducts a student flying program. The airport is used by more than 20 local pilots.

UTILITIES: Mountain States Telephone & Telegraph Co. - phones in service, 4,149. In 1940 there were only 1200. The company has recently expended \$500,000 in Burley in a new, modern building and equipment and in the change over to the dial system.

Electric and water systems are municipally owned. Rates substantially lower than many communities of comparable type. Long range planning is now in progress to insure adequate power in the future.

Water is pumped from deep wells and distributed through city-owned system. A low pressure water system is piped throughout the city for lawns and gardens.

In addition to an adequate fire department, a rural fire truck serving all areas of Cassia and Minidoka counties, the east end of Twin Falls county and the west end of Power county, is maintained.

The Intermountain Gas Company has only recently completed installations in Burley, to bring the first natural gas to this area.

INDUSTRY SUPPORTING THE CITY: Burley is a farm marketing and distribution center and is supported by a rich farming area, outstanding in production of the famous Idaho potatoes, sugar beets, beans, onions, alfalfa and wheat. Cattle and sheep business also occupy prominent places in the business of the country, as well as dairying. The Jerome Co-operative Creamery has a large receiving plant, located just north of Burley. The Sego Milk Company, Swift & Company and Young's Dairy each maintain a plant here. One of our most important industries is the Burley Flour Mills, where thousands of tons of grain are annually made into flour. The Amalgamated Sugar Company plant is located six miles north and is definitely contributory to the business life of Burley; offices are maintained in Burley. Burley Brick & Sand Company manufactures a complete line of building materials. The Long Sand & Gravel Company is a well established building concern.

The Burley Bag Company manufactures bags for a large part of the crops raised in the area. The Saterstrom Pen Service services and repairs pens for an area covering two-thirds of the states of the nation. Bryant Packing Company and Gibson Brothers pack and process all kinds of fresh meat. The Burley Livestock Commission conducts stock sales averaging \$85,000 per week. Shelley Food Processing Company makes the instant mashed potato as well as potato starch and is now a \$2,000,000 installation since its new addition last fall.

NEW INDUSTRY: A new \$2,000,000 potato processing plant known as Idaho Potato Processors, Inc., has just started operation for the processing of potatoes into French fries, hash browns, patties and will ultimately produce the first frozen baked potato in the whole world. It will employ 300 people 10 months of the year.

The Boise-Cascade Corporation will break ground next month for a new million dollar cardboard container plant which will employ 60 people the year round.

FINANCIAL INSTITUTIONS: Burley is served by the following organizations: The Cassia National Bank - Capitalization and surplus, \$310,000; resources, \$5,750,000. Idaho Bank & Trust Co. (Branch), head office, Pocatello, Idaho; total resources of all branches, \$35,000,000; Burley Loans, \$3,000,000. Burley deposits, \$7,200,000. Home Finance Co., capitalized for \$75,000. City Finance with 250 branches in U. S. total assets of over \$100,000,000. Southern Idaho Production Credit Association, total assets, approximately \$9,000,000. The newest in this business is Prudential Savings & Loan who opened an office here Jan. 1, 1958 with assets, locally, of \$350,000.

We invite you to make a personal visit to our city. If you are interested in securing business or industrial sites we will be happy to render any service possible in securing complete information.

DURLEY CHAMBER OF COMMERCE

Phone ORchard 8-7230

Idaho Land & Appraisal
Service
Box 2161
Boise, Idaho

36-2537

APPLICATION FOR PERMIT To Appropriate the Subterranean Waters of The State of Idaho

Application No. G-38413
Permit No. G-30373
District No.

1. Name of Applicant: Idaho Potato Processors, Inc.
Postoffice address: PO Box 749, Burley County: Cassia State: Idaho
2. Quantity of water claimed: 225 Miner's inches
(a) Rate of withdrawal in cubic feet per second 4.5 or Idaho
Miners' inches or gallons per minute
(b) Annual withdrawal in acre feet per annum
3. Source of water supply: Drilled well
4. Location of point of diversion or well is in the NE 1/4 of the NE 1/4 of Section 26
Twp. 10 S , Rge. 22 E , B.M., County of Cassia
5. Water is to be used for: Commercial purposes
6. If for municipal, industrial or recreational purposes, give:
Lot 1, Section 23,
(a) Point of use of water is in the NE 1/4 of the NE 1/4 of Section 26 , Twp. 10 S
Rge. 22 E , B.M.
(b) Waste water or sewage effluent is to be returned to
at a point in the 1/4 of the 1/4 of Section , Twp. , Rge. , B.M.
7. Kind of works: Drilled well, cased and equipped with turbine type pump and motor
8. Estimated cost of works: \$12,000.00
9. (a) Is reservoir to be used? No
(b) Capacity of reservoir:
10. The time required for the completion of such work and complete application of the water to the proposed use is 5
years.
11. If applicant is a corporation, give:
I. (a) Date and place of incorporation: Articles of Incorporation attached
(b) Amount of capital stock: \$ (c) Amount paid in: \$
(d) Names and addresses of directors:
II. The financial resources of the applicant are (a) Cash onhand: \$
(b) Treasury stock: (c) Bonds to be issued:
(d) Other resources:
12. The land to be irrigated is described in the following tabulation:
13. Existing water rights and/or valid permits appurtenant to the lands to be irrigated are: None
(a) (cubic feet per second, inches or gallons per minute) of the water herein applied for is to be supple-
mental to the existing water rights.
(b) (cubic feet per second, inches or gallons per minute) is for new lands.

Exhibit C
Affidavit of Celeste A. Thaine
45-2763

Remarks: This well was actually drilled 1/10/57, by Boley-Henry-Weech, well drillers of Hirtaugh, Idaho. All of the work was completed on that date, the well was put to use at that time and has been used continuously since then.

BE IT KNOWN THAT The undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Idaho Potato Processors, Inc. Applicant.

By s/ Harley M. McDowell Agent.

Date of first receipt at Department of Reclamation: 8:00 A.M. January 23, 1962

Returned to applicant for correction:

Corrected application received:

Approval of State Reclamation Engineer

The number of this permit is G- 30373

Recorded in Book 106 Page 30373 Approved January 29, 1962

This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho, and hereby approve the same, subject to the following limitations and conditions:

Bond in the sum of \$ to be filed on or before

Work to begin on or before

and to continue diligently and uninterruptedly to completion, unless

temporarily interrupted by circumstances over which the permit holder has no control.

One-fifth of the work above specified to be completed on or before July 29, 1964

The whole of said work to be completed and beneficial use of water appropriated in accordance herewith, to be made and proofs offered on or before January 29, 1967

Witness my hand this 29th

day of January, 1962

s/ RALPH W. THOMAS
Deputy STATE RECLAMATION ENGINEER.

IN TESTIMONY WHEREOF, We, ROBERT E. SMYTHE, Governor of the State of Idaho, and ARNOLD WILLIAMS, Secretary of State of the State of Idaho, have caused this instrument to be executed in the name of the State of Idaho, and caused the Great Seal of the State of Idaho to be hereunto affixed, this 29th day of JANUARY, 19 62.

Countersigned:

STATE OF IDAHO

(SEAL)

By s/ ARNOLD WILLIAMS

Secretary of State.

By s/ ROBERT E. SMYTHE

Governor

12.

Twp.	Range	Sec.	NE 1/4		NW 1/4		SW 1/4		SE 1/4		Totals	
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4		NE 1/4
			Permit No. G-30373 CERTIFICATE OF COMPLETION OF WORKS									
TO ALL WHOM IT MAY CONCERN: This is to certify that IDAHO POTATO PROCESSORS, INC. of Burley, County of Cassia, and State of Idaho, the holder of Permit No. G-30373, issued upon Application No. G-38413, bearing date of priority of January 23, 1962, authorizing the diversion of 4.5 second feet of the waters of a well, County of Cassia, State of Idaho, for commercial purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use 2.66 second feet of the waters of a well from subterranean flow; that the point of diversion of said waters NE 1/4, Sec. 26, T. 10 S., R. 22 E., B. M.; and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: commercial use in Lot 1, Sec. 23; NE 1/4, Sec. 26, T. 10 S., R. 22 E., B. M. Witness my hand this 13th day of June A. D. 1962. s/ RALPH W. THOMAS Deputy State Reclamation Engineer Proof of Completion of Works Made: March 30, 1962 LICENSE ISSUED FOR 2.66 SEC. FT. page 7296												

RECEIVED
JAN 10 2005
DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

A. Subcase 45-2763
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: McCain Foods USA, Inc., Attn: Jay Ulrich

Address: P. O. Box 10

Burley, ID 83318

Daytime Phone: 208-678-6729

Name & Address of Attorney, if any:

Josephine P. Beeman

Beeman & Associates, P.C.

409 West Jefferson Street

Boise, Idaho 83702

(208) 331-0950

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: McCain Foods USA, Inc., Attn: Jay Ulrich

Address: P. O. Box 10

Burley, ID 83318

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☐ **Quantity**
Should be: _____
4. ☒ **Priority Date**
Should be: January 1957
5. ☐ **Point(s) of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
11. **I object because:**
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

REASONS SUPPORTING OBJECTION(S): The priority date described above is based on historical beneficial use of the water right. Leave will be sought from the court to amend the Notice of Claim for this water right to properly reflect the priority date.

F.

VERIFICATION

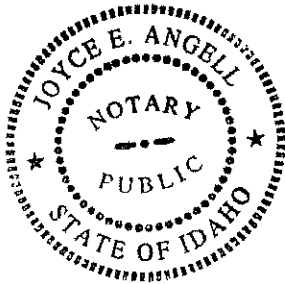
State of Idaho)
)ss.
County of Ada)

Josephine P. Beeman, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(i) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Josephine P. Beeman
Josephine P. Beeman
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: January 7, 2005



Joyce E. Angell
Notary Public for the State of Idaho
Residing at: Boise, Idaho
My Commission Expires: 7-29-08

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.**
You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on January 7, 2005, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

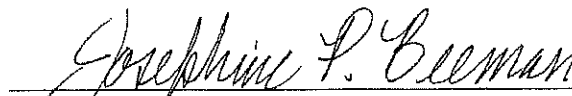
Name: McCain Foods USA, Inc., Attn: Jay Ulrich
Address: P. O. Box 10
Burley, ID 83318

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724



Signature of attorney
mailing on Objector's behalf

08/24/2004

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 45-2763

NAME AND ADDRESS: MC CAIN FOODS USA INC
ATTN JAY ULRICH
PO BOX 10
BURLEY ID 83318

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 2.660 CFS
1,371.80 AFY

PRIORITY DATE: 01/23/1962

POINT OF
DIVERSION: T10S R22E S23 SWSW Lot 3 Within CASSIA County
T10S R22E S23 SWSESW Lot 2 Within CASSIA County
T10S R22E S23 SESESW Lot 2 Within CASSIA County
T10S R22E S23 SWSWSE Lot 1 Within CASSIA County
T10S R22E S23 SESWSE Lot 1 Within CASSIA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
INDUSTRIAL

PERIOD OF USE
01/01 12/31

QUANTITY
2.660 CFS
1,371.80 AFY

PLACE OF USE: INDUSTRIAL Within CASSIA County

T10S R22E S23 Lot 3 SWSW
T10S R22E S23 Lot 1 SWSE

T10S R22E S23 Lot 2 SESW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT
TO SECTION 42-1425, IDAHO CODE.

Exhibit N
Affidavit of Celeste Thaine in
Support of Motion to File Late Claim
45-13970

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number A45-02763

Date Received

Receipt Number

RECEIVED

FEB 23 1999

Department of Water Resources
Southern Region

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

FEB 11 1999

Department of Water Resources
Southern Region

Please type or print clearly

1. Name of Claimant (s) McCain Foods USA, Inc. Phone (208) 678-9431
Mailing Address P.O. Box 10, Burley, ID Zip 83318

2. Date of Priority (Only one (1) per claim) 01/23/1962

3. Source of water supply (a) groundwater
which is tributary to (b) _____

4. a. Location of existing point of diversion is: Township 10S Range 22E Section 23,
1/4 of SW 1/4 of SW 1/4, Govt. Lot, 3 B.M., County of Cassia

Additional points of diversion if any: 2 pts in SWSE (Lot 1), 2 pts in SESW (Lot 2)

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____
_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.

four wells to supply potato processing plants, one well to supply cold
storage facilities

Exhibit O

Affidavit of Celeste Thaine in

Support of Motion to File Late Claim

45-13970

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For commercial purposes from 1-1 to 12-31 amount 2.66 or _____
For _____ purposes from _____ to _____ amount _____ or _____
For _____ purposes from _____ to _____ amount _____ or _____
For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 2.66 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) potato processing

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
10S	22E	23											L3	L2			L1		
													IC	IC			IC		

Total number of acres irrigated _____

11. In which county (ies) are lands listed above as place of use located? Cassia

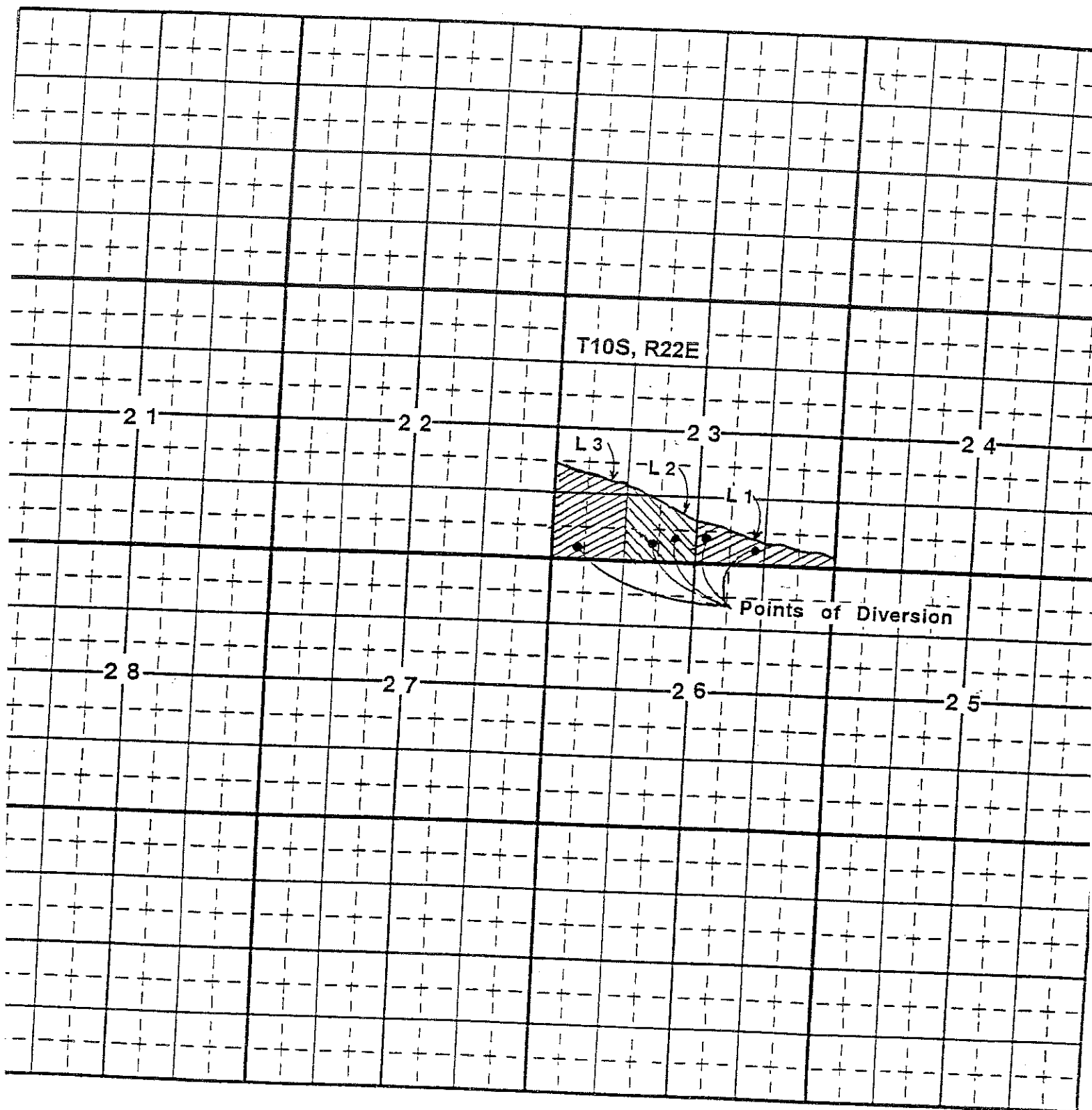
12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
45-02747, 45-02748, 45-02749, 47-02758, 45-07137 or None ()

4. Remarks:

Water is used at the complex for both industrial and commercial uses.

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.
Scale: 2 inches equals 1 mile



15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License X Permit _____
Decree _____
If applicable provide IDWR Water Right Number 45-02763
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____ Plant Manager
of _____ McCain Foods USA, Inc. _____ Title _____
Organization _____, that I have signed the foregoing
document in the space below as _____ Plant Manager _____ of _____ McCain Foods USA, Inc. _____
Title _____ Organization _____
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent [Signature]
Title and Organization _____ Plant Manager, McCain Foods USA, Inc. _____ Date 2-4-99

State of Idaho/or _____)
County of Cassia) SS.

Subscribed and sworn (or affirmed) before me this 4th day of February 19 99

SEAL

Notary Public Zelma Olabum

Residing at Heyburn

My Commission Expires 5-22-99

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name McCain Foods USA, Inc Ident. Number A45-02763

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number A45-02747

Date Received

Receipt Number

RECEIVED

FEB 23 1999

Department of Water Resources
Southern RegionNOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

FEB 11 1999

Department of Water Resources
Southern Region

Please type or print clearly

1. Name of Claimant (s) McCain Foods USA, Inc. Phone (208) 678-9431
Mailing Address P.O. Box 10, Burley, ID Zip 833182. Date of Priority (Only one (1) per claim) 03/15/19603. Source of water supply (a) groundwater
which is tributary to (b) _____4. a. Location of existing point of diversion is: Township 10S Range 22E Section 23,
1/4 of SW 1/4 of SW 1/4, Govt. Lot, 3 B.M., County of CassiaAdditional points of diversion if any: 2 pts in SWSE (Lot 1), 2 pts in SESW (Lot 2)

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.four wells to supply potato processing plants, one well to supply cold
storage facilities

Exhibit P

Affidavit of Celeste Thaine in
Support of Motion to File Late Claim
45-13970

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For commercial purposes from 1-1 to 12-31 amount 4.00 or _____
For _____ purposes from _____ to _____ amount _____ or _____
For _____ purposes from _____ to _____ amount _____ or _____
For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 4.00 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) potato processing

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
10S	22E	23											L3	L2			L1		
													IC	IC			IC		

Total number of acres irrigated _____

11. In which county (ies) are lands listed above as place of use located? Cassia

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

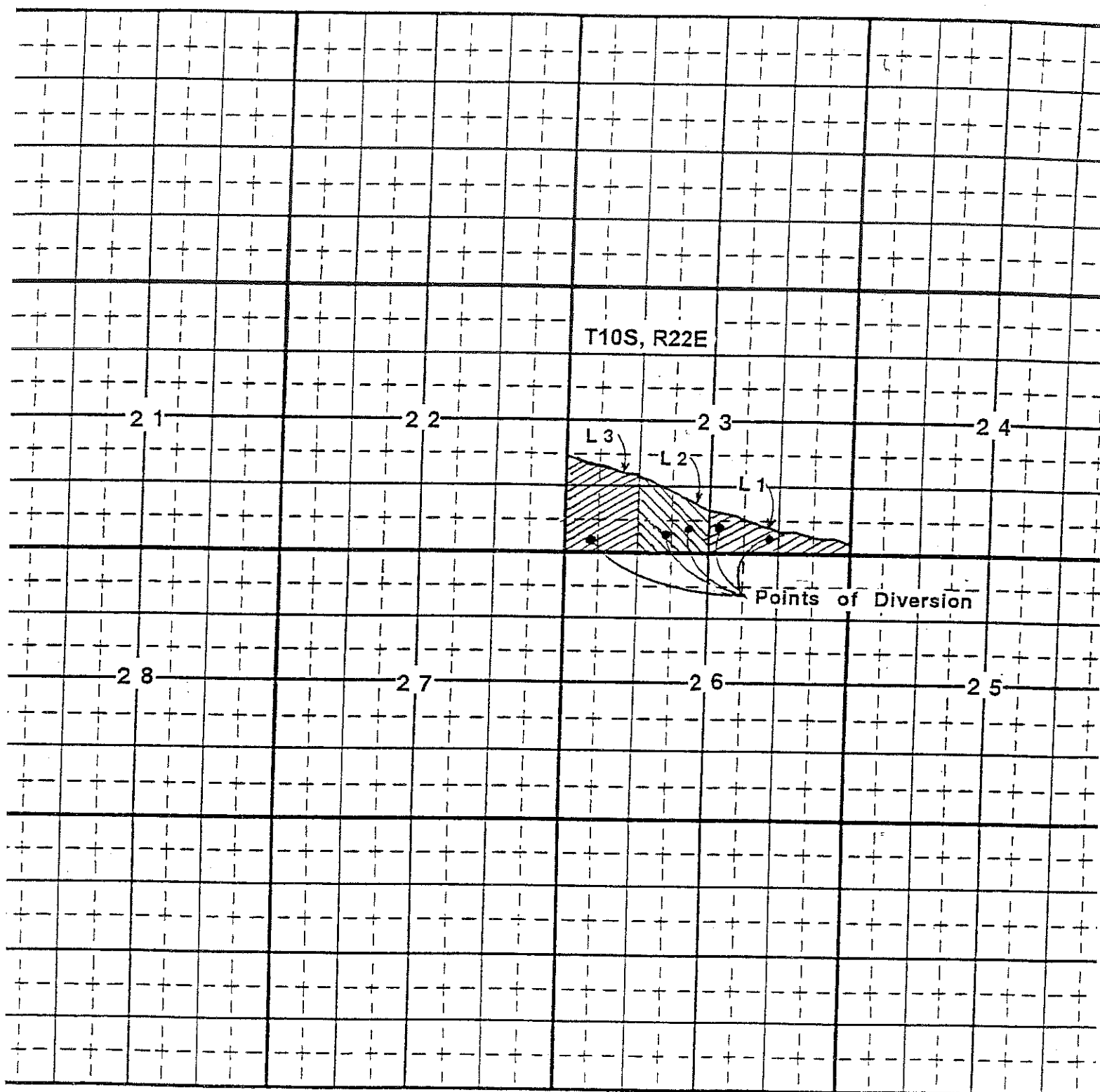
13. Describe any other water rights used at the same place and for the same purposes as described above.
45-02748, 45-02749, 45-02763, 45-07137, 45-02758 or None ()

14. Remarks:

Water is used at the complex for both industrial and commercial uses.

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



15. Basis of Claim (check one) ☐ Official Use ☐ Posted Notice ☒ License ☐ Permit ☐
Decree _____
If applicable provide IDWR Water Right Number 45-02747
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)
(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled
"How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____
wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true
and correct.
Signature of Claimant (s) _____ Date _____
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____ Plant Manager
_____ Title
of _____ McCain Foods USA, Inc. _____, that I have signed the foregoing
Organization
document in the space below as _____ Plant Manager _____ of _____ McCain Foods USA, Inc. _____
Title Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent *James H. Rayburn*
Title and Organization Plant Manager, McCain Foods USA, Inc. Date 2-4-99

State of Idaho/or _____)
County of Cassia) SS.

Subscribed and sworn (or affirmed) before me this 4th day of February 19 99
SEAL Notary Public *John Oldham*
Residing at *Keyburn*
My Commission Expires 5-22-99
Please Print Name

17. Notice of Appearance:
Notice is hereby given that I, _____ will be acting as attorney at law on behalf
of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above
should be mailed to me at the address listed below.
Signature _____
Address _____
Date _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number A45-02748

Date Received

Receipt Number

RECEIVED

FEB 23 1999

Department of Water Resources
Southern Region

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

FEB 11 1999

Department of Water Resources
Southern Region

Please type or print clearly

1. Name of Claimant (s) McCain Foods USA, Inc Phone (208) 678-9431

Mailing Address P.O. Box 10, Burley, ID Zip 83318

2. Date of Priority (Only one (1) per claim) 03/06/1961

3. Source of water supply (a) groundwater
which is tributary to (b) _____

4. a. Location of existing point of diversion is: Township 10S Range 22E Section 23,
1/4 of SW 1/4 of SW 1/4, Govt. Lot, 3 B.M., County of Cassia

Additional points of diversion if any: 2 pts in SWSE (Lot 1), 2 pts in SESW (Lot 2)

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.

four wells to supply potato processing plants, one well to supply cold
storage facilities

Exhibit Q

Affidavit of Celeste Thaine in

Support of Motion to File Late Claim

45-13970

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For commercial purposes from 1-1 to 12-31 amount 0.60 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.60 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) potato processing

10. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
10S	22E	23											L3 IC	L2 IC			L1 IC		

Total number of acres irrigated _____

11. In which county (ies) are lands listed above as place of use located? Cassia

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

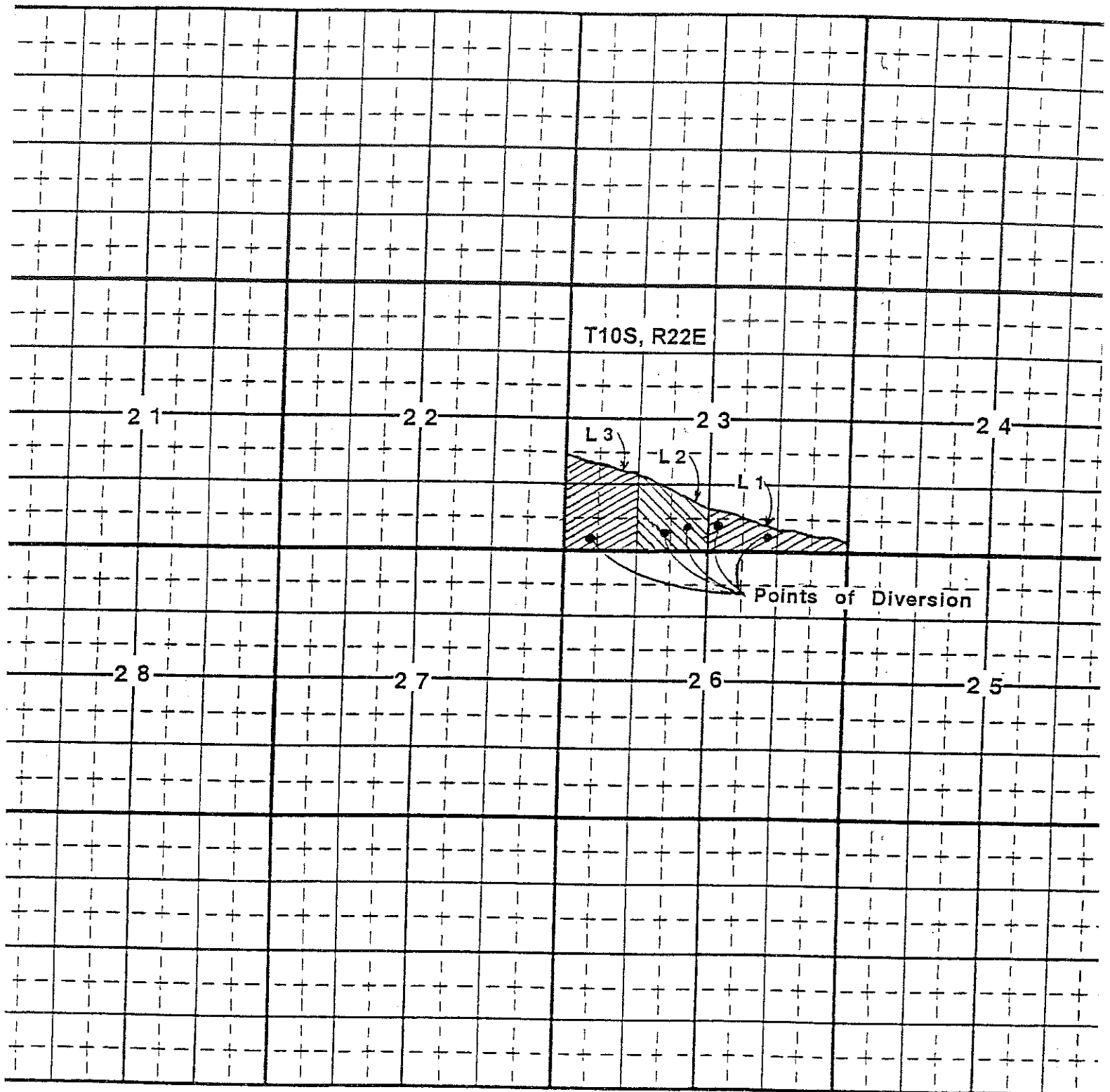
13. Describe any other water rights used at the same place and for the same purposes as described above.
45-02747, 45-02749, 45-02758, 45-02763, 45-07137 or None ()

14. Remarks:

Water is used at the complex for both industrial and commercial uses.

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



15. Basis of Claim (check one) ☐ Special Use ☐ Posted Notice ☒ License ☐ Permit ☐
Decree _____
If applicable provide IDWR Water Right Number 45-02748
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do ☐ do not ☐ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am Plant Manager

Title

of McCain Foods USA, Inc.

Organization

, that I have signed the foregoing

document in the space below as Plant Manager

Title

of McCain Foods USA, Inc.

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent *German H. Rayburn*

Title and Organization

Plant Manager, McCain Foods USA, Inc.

Date 2-4-99

State of Idaho/or _____)
County of Lassie) SS.

Subscribed and sworn (or affirmed) before me this 4th day of February, 19 99

SEAL

Notary Public *Belma Alabani*

Residing at *Key Boring*

My Commission Expires 5-22-99

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number A45-02749

Date Received

Receipt Number

RECEIVED

FEB 23 1999

Department of Water Resources
Southern Region

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

FEB 11 1999

Department of Water Resources
Southern Region

Please type or print clearly

1. Name of Claimant (s) McGain Foods USA, Inc. Phone (208) 678-9431Mailing Address P.O. Box 10, Burley, ID Zip 833182. Date of Priority (Only one (1) per claim) 08/13/19653. Source of water supply (a) groundwater
which is tributary to (b) _____4. a. Location of existing point of diversion is: Township 10S Range 22E Section 23,
1/4 of SW 1/4 of SW 1/4, Govt. Lot, 3 B.M., County of CassiaAdditional points of diversion if any: 2 pts in SWSE (Lot 1), 2 pts in SESW (Lot 2)

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____
_____ 1/4, Govt. Lot _____ B.M., County of _____5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.four wells to supply potato processing plants, one well to supply cold
storage facilities

Exhibit R

Affidavit of Celeste Thaine in

Support of Motion to File Late Claim

45-13970

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For industrial purposes from 1-1 to 12-31 amount 2.85 or 734.7
For _____ purposes from _____ to _____ amount _____ or _____
For _____ purposes from _____ to _____ amount _____ or _____
For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 2.85 (cfs) and/or (b) 734.7 (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) potato processing

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
10S	22E	23											L3 IC	L2 IC			L1 IC		

Total number of acres irrigated _____

11. In which county (ies) are lands listed above as place of use located? Cassia

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

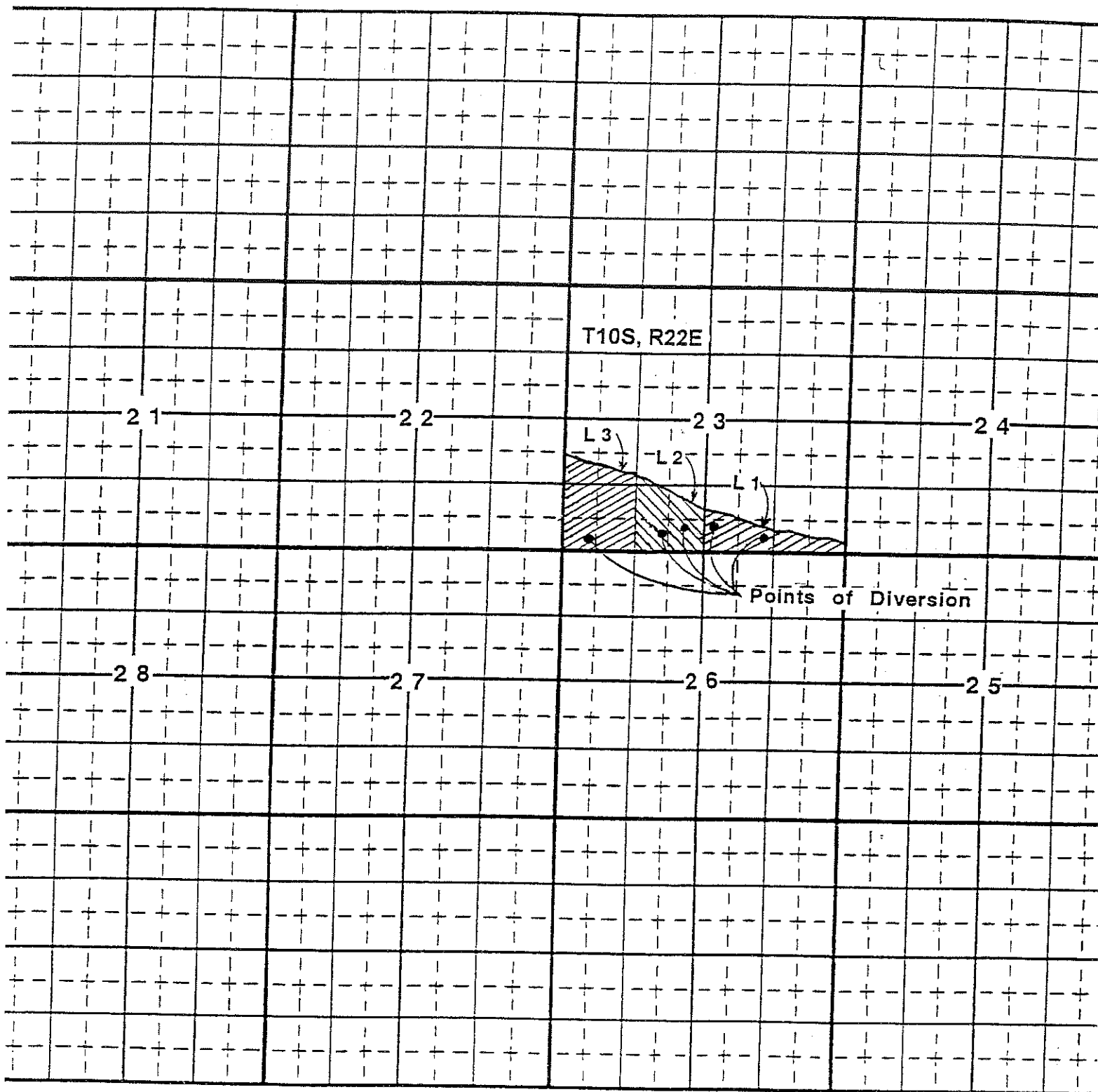
13. Describe any other water rights used at the same place and for the same purposes as described above.
45-02747, 45-02748, 45-02758, 45-02763, 45-07137 or None ()

14. Remarks:

Water is used at the complex for both industrial and commercial uses.

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License X Permit _____
Decree _____
If applicable provide IDWR Water Right Number 45-02749
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____ Plant Manager
_____ Title
of _____ McCain Foods USA, Inc. _____, that I have signed the foregoing
_____ Organization
document in the space below as _____ Plant Manager _____ of _____ McCain Foods USA, Inc. _____
_____ Title _____ Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent *Garrett H. Payton*
Title and Organization _____ Plant Manager, McCain Foods USA, Inc. _____ Date 2-4-99

State of Idaho/or _____)
County of Cassia) SS.

Subscribed and sworn (or affirmed) before me this 4th day of February 19 99

SEAL

Notary Public *Zelma Oldham*

Residing at *Heyburn*

My Commission Expires 5-22-99

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number A45-02758

Date Received

Receipt Number

RECEIVED

FEB 23 1999

Department of Water Resources
Southern Region

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

FEB 11 1999

Department of Water Resources
Southern Region

Please type or print clearly

1. Name of Claimant (s) McCain Foods USA, Inc. Phone (208) 678-9431
Mailing Address P.O. Box 10, Burley, ID Zip 83318

2. Date of Priority (Only one (1) per claim) 03/15/1960

3. Source of water supply (a) groundwater
which is tributary to (b) _____

4. a. Location of existing point of diversion is: Township 10S Range 22E Section 23,
1/4 of SW 1/4 of SW 1/4, Govt. Lot, 3 B.M., County of Cassia

Additional points of diversion if any: 2 pts in SWSE (Lot 1), 2 pts in SESW (Lot 2)

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.

four wells to supply potato processing plants, one well to supply cold
storage facilities

Exhibit S

Affidavit of Celeste Thaine in

Support of Motion to File Late Claim

45-13970

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For commercial purposes from 1-1 to 12-31 amount 2.08 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 2.08 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) potato processing

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
10S	22E	23											L3	L2			L1		
													IC	IC			IC		

Total number of acres irrigated _____

11. In which county (ies) are lands listed above as place of use located? Cassia

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

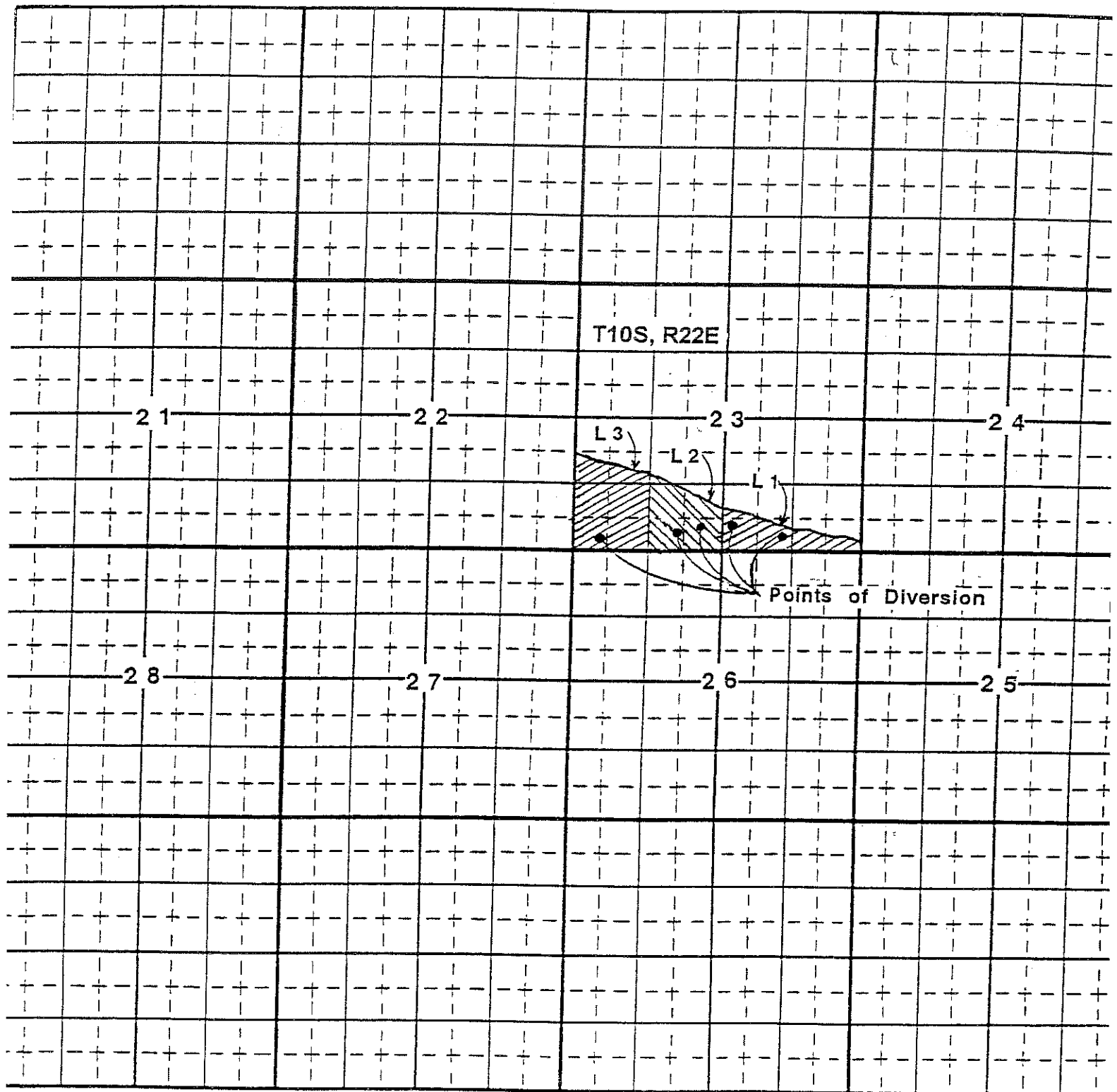
13. Describe any other water rights used at the same place and for the same purposes as described above.
45-02747, 45-02748, 45-02749, 45-02763, 45-7137 or None ()

14. Remarks:

Water is used at the complex for both industrial and commercial uses.

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



15. Basis of Claim (check one) ☐ Official Use ☐ Posted Notice ☐ License ☒ Permit ☐
Decree ☐
If applicable provide IDWR Water Right Number 45-02758
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do ☐ do not ☐ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am Plant Manager Title
of McCain Foods USA, Inc. Organization, that I have signed the foregoing
document in the space below as Plant Manager Title of McCain Foods USA, Inc Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent *James H. Rayburn*
Title and Organization Plant Manager, McCain Foods USA, Inc. Date 2-4-99

State of Idaho/or _____)
County of Lassie) SS.

Subscribed and sworn (or affirmed) before me this 4th day of February 1999

SEAL

Notary Public *Zelma Oldham*

Residing at *Heeburn*

My Commission Expires *5-22-99*

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number A45-07137

Date Received

Receipt Number

RECEIVED

FEB 23 1999

Department of Water Resources
Southern RegionNOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

FEB 11 1999

Department of Water Resources
Southern Region

Please type or print clearly

1. Name of Claimant (s) McCain Foods USA, Inc. Phone (208) 678-9431

Mailing Address P.O. Box 10, Burley, ID Zip 83318

2. Date of Priority (Only one (1) per claim) 05/24/1973

3. Source of water supply (a) groundwater
which is tributary to (b)4. a. Location of existing point of diversion is: Township 10S Range 22E Section 23,
1/4 of SW 1/4 of SW 1/4, Govt. Lot, 3 B.M., County of Cassia

Additional points of diversion if any: 2 pts in SWSE (Lot 1), 2 pts in SESW (Lot 2)

b. If instream flow, beginning point of claimed instream flow is:

Township Range Section, 1/4 of 1/4 of 1/4,

Govt. Lot B.M., County of

ending point is: Township Range Section, 1/4 of 1/4 of

1/4, Govt. Lot B.M., County of

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.four wells to supply potato processing plants, one well to supply cold
storage facilities

Exhibit T

Affidavit of Celeste Thaine in

Support of Motion to File Late Claim

45-13970

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For industrial purposes from 1-1 to 12-31 amount 3.43 or 884.50
 For _____ purposes from _____ to _____ amount _____ or _____
 For _____ purposes from _____ to _____ amount _____ or _____
 For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 3.43 (cfs) and/or (b) 884.50 (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) potato processing

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
10S	22E	23											L3	L2			L1		
													IC	IC			IC		

Total number of acres irrigated _____

11. In which county (ies) are lands listed above as place of use located? Cassia

12. Do you own the property listed above as place of use? Yes X No _____
 If your answer is No, describe in Remarks below the authority you have to claim this water right.

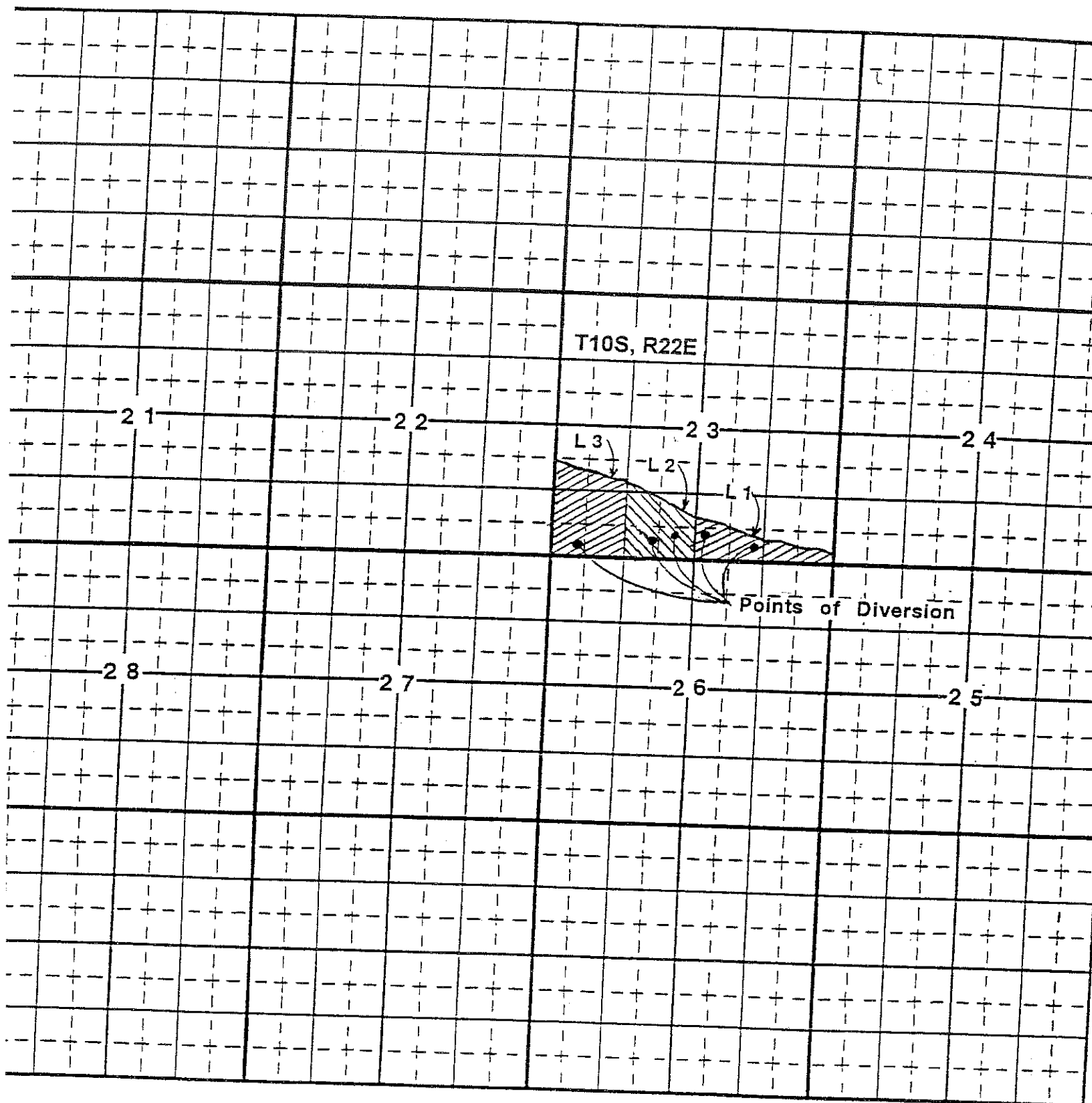
13. Describe any other water rights used at the same place and for the same purposes as described above.
45-02747, 45-02748, 45-02749, 45-02758, 45-02763 or None ()

14. Remarks:

Water is used at the complex for both industrial and commercial uses.

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License X Permit _____
Decree _____
If applicable provide IDWR Water Right Number 45-07137
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____ Plant Manager
of _____ McCain Foods USA, Inc. _____ Title
Organization _____ that I have signed the foregoing
document in the space below as _____ Plant Manager of _____ McCain Foods USA, Inc.
Title _____ Organization _____
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent [Signature]
Title and Organization _____ Plant Manager, McCain Foods USA, Inc. Date 2-4-99

State of Idaho/or _____)
County of Cassia) SS.

Subscribed and sworn (or affirmed) before me this 4th day of February, 19 99.

SEAL

Notary Public [Signature]

Residing at Heyburn

My Commission Expires 5-22-99

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

BOLEY, HENRY, WEECH

WELL DRILLERS

MURTAUGH, IDAHO

Rec'd 6 7 13

OWNER: IDAHO POTATO PROCESSORS, INC., BURLEY, IDAHO

LEGAL LOCATION: 1/2 Sec 24, T2N, R13E

TOTAL DEPTH 295 FEET S.W.L. 178' STRUCK FIRST WATER AT 48'
ALL TOP WATER IN SAND AND GRAVEL FORMATION CASSED OUT
CASING USED, 120' 9" 20 O.D. X 5/16" S.W.
20" X 8" X 3/4" CASING SHOE USED ON BOTTOM OF PIPE
2' OF PIPE DOUBLED ABOVE SHOE
SIZE OF HOLE DRILLED 20" FROM TOP TO BOTTOM
DATE WORK BEGUN DEC. 19, 1956 DATE COMPLETED JAN. 10, 1957.

FORMATION:

0-15	GRAVEL & BROWN CLAY
15-29	SAND
29-36	BROWN CLAY & GRAVEL
36-51	LIGHT GREY CLAY & GRAVEL
51-84	GRAVEL
84-98	BROWN SANDY CLAY
98-103	BROWN SAND
103-117	BROWN SANDY CLAY
117-120	BROWN SAND
120-137	BLACK LAVA
137-148	RED LAVA
148-152	BLACK LAVA
152-157	GREY LAVA
157-178	BROWN LAVA
178-190	BLACK LAVA
190-205	BROWN LAVA TALC IN SEAMS
205-221	RED LAVA
221-242	GREY LAVA
242-248	RED LAVA
248-263	BROWN HARD CLAY
263-292	TAN CLAY
292-295	BLACK LAVA

NE NE S. 24 105 22 E

Post-It Fax Note		7671
To	Celeste Thaine	
Co./Dept	Beeman & Assoc.	
Phone #	331-0954	
Fax #	331-0954	
Date	3/2/06	# of pages 2
From	John Sharkey	
Co.	JDW	
Phone #	287-4800	
Fax #	287-4800	

Exhibit U

Affidavit of Celeste Thaine in

Support of Motion to File Late Claim

45-13970

LAYNE & BOWLER PUMP COMPANY

VERTICAL TURBINE PUMPS

REGISTERED U.S. PATENT OFFICE

INCORPORATED IN CALIF.
LOS ANGELES, CALIF.

2943 VAIL AVENUE
EAST LOS ANGELES, CALIF.

CABLE ADDRESS "LAYNEBOWLER"

Permit # 30373

NENE 24 103 WE

FL 2651

Casino

Name Idaho Potato Processing Co

Date 1/14/57 1/18/57

Location Buckley Idaho

Test Pump 220' x 6" x 135 lbs 10" Dia

Well Size 20'

Well Depth 202'

Orifice Size 6" x 5"

Static Water Level 178

Starting Time 2:30
1/14/57 1/14/57 1/18/57

1/14/57 Time	Pumping Level	Orifice Reading	G.P.M.	Miners Inches
2:30	182'	8 1/2	352	39.1
2:45	185'	17"	504	55.9
3:00	189'	31"	676	75.1
3:10	195'	48"	820	91.0
Break Shaft Coupling				
1/15/57 11:30	184'	19.5	540	60"
11:45	190'	40"	770	85"
12:00	193	51"	860	95"
1:00	198	76"	1040	115"
1/17/57 12:30	196'	78"	1050	116"
1:00	200'	108"	1280	143"
	240'		1800	200"

Remarks:

After running 10" x 6" of Column and after
reported Sucking of well water would stay
Clear of Sand
In running out an average on 5400 GPM Per foot
diameter open it is our opinion that this well
would if necessary pump 1800 GPM @ 220 ft.

SALES AND SERVICE OFFICES IN EVERY PRINCIPAL PUMPING DISTRICT THROUGHOUT THE WEST